C. B—11 No. 317

LOK SABHA

THE MENTAL HEALTH BILL, 1978

REPORT OF THE JOINT COMMITTEE

[Presented on the 24th November, 1978]

LOK SABHA SECRETARIAT
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LOK SABHA SECRETARIAT

CORRIGENDA

to

the Report of the Joint Committee on
the Mental Health Bill, 1978.

Page (viii), line 4 from bottom
for "withnesses" read "witnesses"

Page 22, Clause 45, in the marginal heading
for "discharge on the undertaking of relatives or friends Order of etc. for due care of mentally ill person"
read "Order of discharge on the undertaking of relatinves or friends etc. for due care of mentally ill person"

Page 23, line 7
for "dicharge" read "discharge"

Page 40,
for lines 1 and 2
read "that the Committee shall make a report to this House by the first day of the next session"

Page 48, line 23,
after should insert "be"

Page 52, line 15,
for "spit" read "spot"

Page 55, after line 4 from bottom,
Add 'Speaker"

Page 56, line 10 from bottom
for "PRESESNT" read "PRESENT"

Page 57, line 4 from bottom,
for "Heal" read "Head"

Page 83, line 21,
for "PRSENT" read "PRESENT"

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JOINT COMMITTEE ON THE MENTAL HEALTH BILL
1978

COMPOSITION OF THE COMMITTEE

Dr. Sushila Nayar—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Subhash Chandra Bose Alluri
3. Dr. Baldev Prakash
4. Shri K. B. Choudhari
5. Shri Anant Dave
6. Shri Raj Krishna Dawn
7. Ch. Hari Ram Makkasar Godara
8. Shri Harikesh Bahadur
9. Shri S. Jaganathan
10. Shri Kacharulal Hemraj Jain
11. Shri Hukam Chand Kachwai
12. Shri Ramachandran Kadannappalli
13. Dr. Bapu Kaldate
14. Shri Rajshekhar Kolur
15. Dr. Sarojini Mahishi
16. Shri Mallikarjun
17. Dr. Bijoy Mondal
18. Shri S. G. Murugaiyan
19. Shri T. A. Pai
20. Shri K. Ramamurthy
21. Shri Rudolph Rodrigues
22. Dr. Saradish Roy
23. Shri Sakti Kumar Sarkar
24. Shri Shrikrishna Singh
25. Shri H. L. P. Sinha
26. Shri Suraj Bhan
27. Shri N. Tombi Singh
28. Shri Jagdambi Prasad Yadav
29. Shri Yuvraj
30. Shri Raj Narain

Rajya Sabha

31. Shri R. D. Jagtap Avergoankar
32. Shri G. C. Bhattacharya

33. Shri Swami Dinesh Chandra
34. Shri Krishna Nand Joshi
35. Shri Robin Kakati
36. Shri Ibrahim Kalaniya
37. Shri Maqsood Ali Khan
38. Shri B. V. Abdulla Koya
39. Shri Khyomo Lotha
40. Shri Harekrushna Mallick
41. Shri Kalraj Mishra
42. Shrimati Purabi Mukhopadhyay
43. Shrimati Noorjehan Razack
44. Shrimati Ushi Khan
45. Shri Bhagwati Charan Varma

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

LEGISLATIVE COUNSEL

1. Shrimati V. Ramadevi—*Joint Secretary and Legislative Counsel*
2. Shri Y. P. Sud—*Assistant Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

1. Shri K. P. Singh—*Additional Secretary.*
2. Dr. J. S. Neki—*Adviser and Director, Post Graduate Institute of Medical Education and Research, Chandigarh.*
3. Shri R. K. Singhal—*Joint Secretary.*
4. Dr. I. D. Bajaj—*Additional Director-General of Health Services.*
5. Shri Anand Prakash Atri—*Deputy Secretary.*

REPORT OF THE JOINT COMMITTEE ON THE MENTAL HEALTH BILL, 1978

I, the Chairman of the Joint Committee to which the *Bill to consolidate and amend the law relating to the treatment and care of mentally ill persons, to make better provision with respect to their property and affairs and for matters connected therewith or incidental thereto, was referred, having been authorised to submit the Report on their behalf, present their Report, with the Bill, as amended by the Committee annexed thereto.

2. The Bill was introduced in Lok Sabha on the 12th May, 1978. The motion for reference of the Bill to a Joint Committee of the Houses was moved in Lok Sabha by Shri Raj Narain, the then Minister of Health and Family Welfare on 15th May, 1978 and was adopted (Appendix-I).

3. The Rajya Sabha concurred in the said Motion on the 18th May, 1978 (Appendix II).

4. The message from Rajya Sabha was published in Lok Sabha Bulletin—Part II on the 19th May, 1978.

5. The Committee held 14 sittings in all.

6. The first sitting of the Committee was held on the 7th June, 1978 to draw up their programme of work. The Committee decided to invite written memoranda from the State Government/Union Territory Administrations, Medical Superintendents of Mental Hospitals in the country, other private institutions, Psychiatrists, organisations and other individuals interested in the subject matter of the Bill, by the 25th June, 1978 for their consideration. The Committee also decided to issue a Press Communique in this behalf and address letters to all the State Governments/Union Territory Administrations and other institutions etc. inviting their views and suggestions on the provisions of the Bill.

7. The Committee also decided to take oral evidence on the provisions of the Bill and authorised the Chairman to select parties for oral evidence.

8. The Committee further decided to divide themselves into three groups with a view to undertake on-the-spot study visits to certain selected Mental Hospitals in Southern, Eastern and Western regions of the country, and also to hold informal discussions with the Medical Superintendents of the Hospitals on the provisions of the Bill.

The following three study groups formed by the Committee, at its sitting held on the 7th August, 1978 visited mental Hospitals etc. at different places from 8th to 14th September, 1978 as indicated below:

STUDY GROUP I	Srinagar, Jammu, Lucknow.
STUDY GROUP II	Calcutta, Ranchi and Tezpur.
STUDY GROUP III	Bangalore, Madras and Visakhapatnam.

*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 12th May, 1978.

The Committee also undertook on-the-spot study visits to (i) Tihar Jail (Mental Ward), Delhi in the afternoon of Saturday, the 7th October, 1978 and (ii) the Mental Hospital Agra on Sunday, the 12th November, 1978 as per their decisions taken at their sittings held on the 5th and 6th October, 1978 respectively, and held informal discussions with the Medical Superintendents and other staff members of the Hospitals.

9. The Committee at their sitting held on the 28th June, 1978 decided to extend the time for submission of memoranda to the Committee upto the 10th July, 1978 for their consideration.

10. 45 memoranda on the Bill were received by the Committee from various Psychiatrists/Clinical Psychologists, Associations and Organisations etc. (Appendix III).

11. The Committee also heard oral evidence tendered by various reputed Psychiastrists/Clinical Psychologists, and representatives of certain Associations, Organisations at their sittings held at New Delhi from 3rd to 7th October and 8th November, 1978. A list of persons who gave evidence before the Committee is at Appendix IV.

12. The report of the Committee was to be presented by the 17th July, 1978. The Committee were granted an extension of time. The extension was granted on the 17th July, 1978 upto the last day of the first week of the next Session *i.e.* the 24th November, 1978.

13. The Committee considered the Bill, clause-by-clause at their sittings held from 8th to 11th and on the 13th November, 1978.

14. At their sitting held on the 13th November, 1978 the Committee decided that (i) the evidence tendered before them might be laid on the Tables of the both Houses and (ii) two copies each of the memoranda received by the Committee from various psychiatrists, Associations/Organisations etc. might be placed in the Parliament Library, after the Report is presented, for reference by the Members of Parliament.

15. The Committee considered and adopted the Report at their sitting held on the 21st November, 1978.

16. The observations of the Committee with regard to principal changes proposed in the Bill are detailed in the succeeding paragraphs.

17. *Clause* 2.—The Committee have made amendments to the definitions of certain terms given in this Clause as explained below:

(i) *'Cost of maintenance'*—The Committee are of the opinion that the cost of various items *viz.* lodging boarding, clothing, medicine etc. and other expenditure proposed to be included towards the cost of maintenance in relation to a mentally ill person admitted in a psychiatric hospital or psychiatric nursing home need not be mentioned in the Bill itself as it would make it mandatory in all the cases. This might, they feel, be left at the discretion of the State Government.

Part (a) of Clause 2 has been amended accordingly.

(ii) *'medical practitioner'*—The Committee note that those persons who have been registered in a State Medical Register in accordance with the

provisions of any law, other than the Indian Medical Council Act, 1956, are also proposed to be included in the definition of the term 'medical practitioner'. The Committee were informed that in certain State Medical Registers, all practitioners including compounders and persons without recognised medical qualifications and proper training had also been registered. The Committee feel that since the proposed legislation is specifically being enacted for the care of mentally ill persons who will have to be certified before admission to mental hospital etc. and which requires specialised training in the field, it is not desirable to authorise such persons to be treated as 'medical practitioner' for the purposes of the Bill.

Part (k) of Clause 2 has been amended accordingly.

(iii) *'mentally ill offender'*—The Committee are of the view that the term 'offender' which as per dictionary meaning denotes 'guilty person', would apparently presuppose the conviction of the mentally ill person accused of an offence, being kept under detention in safe custody. This, the Committee feel, may not be true in every case and the term 'prisoner', in their opinion, would more appropriately serve the purpose.

Part (l) of Clause 2 has, therefore, been amended.

(iv) *'mentally ill person'*—The Committee are of the opinion that the definition of the term 'mentally ill person' as proposed, is very wide and amenable to misuse by persons with ulterior motive. Moreover some of these conditions cannot be called a disease *e.g.* :—

(a) *mental deficiency.*—This is a disability and not a disease. The mentally deficient persons are born with less intelligence than other normal persons. They cannot be cured by psychiatric treatment.

(b) *mental sub-normality*—it cannot be treated as a psychiatric condition unless it is associated with psychosis.

(c) *psycho-somatic disorder*—This makes the definition of mental illness very wide which can be abused. Persons with hyper tension, for instance, may have emotional factors which may increase or decrease their symptoms but they are not mentally sick persons.

The Committee are also of the view that delegation of powers to State Governments to prescribe other conditions of mental illness is not desirable in the interest of uniformity of approach in the case of the mentally sick.

Part (m) of Clause 2 has been amended accordingly.

(v) *'psychiatric hospital'* or *'psychiatric nursing home'*—The Committee are of the opinion that psychiatric wards of general hospitals or nursing homes should not be brought within the definition of the 'psychiatric hospital' or 'psychiatric nursing home' so that persons desirous of undergoing voluntary treatment therein are admitted and discharged without any restriction and are free from any stigma attached to mental hospitals.

Committee are further of the opinion that while psychiatric hospitals and nursing homes started and run by Government may not be required

to take a licence, they should be made to observe the prescribed conditions of service and be inspected.

Part (q) of Clause 2 has been amended accordingly.

(vi) *'psychiatrist'*—The Committee are of the opinion that in view of the important role to be played and the functions to be performed by a 'psychiatrist' under the provisions of the proposed legislation, a 'psychiatrist' must have recognised medical qualifications and only medical officers with knowledge and experience in psychiatry should be declared as such.

Part (r) of Clause 2 has been amended accordingly.

18. *New Chapter II.*—The Committee, having undertaken on-the-spot study tours to various parts of the country and apprising themselves with the existing facilities available for the treatment of the mentally ill persons, note with great concern that in a vast country like India, the mental health services, even in the metropolitan cities, are most inadequate. On account of limited capacity in the existing mental hospitals, a large number of mentally ill persons are being kept in jails without proper medical care and attention.

In view of this, the Committee feel that a Mental Health Authority both at Central and State Government level for the development, promotion, supervision and co-ordination of mental health services in the country should be created so that better attention to this unfortunate and neglected section of the society could be paid.

A new Chapter incorporating the said objectives has, therefore, been added.

19. *Clause* 5 [*Original Clause* 3]—The Committee have made certain amendments in this Clause as explained below:—

(i) The Committee feel that persons under the age-group of sixteen and above have different psychiatric problems from adults and the adult patients can exploit younger patients. Therefore, separate psychiatric hospitals or psychiatric nursing homes or sections thereof should be established for mentally ill persons under the age-group of sixteen.

Part (a) of sub-clause (1) of this clause has been amended accordingly.

(ii) The Committee are also of the opinion that separate psychiatric hospitals and psychiatric nursing homes or sections thereof should be established for those mentally ill persons who are addicted to alcohol or other drugs which lead to behavioural changes.

A new part (b) to sub-clause (1) of this Clause has been added accordingly.

20. *Clause* 6 [*Original Clause* 4]—The Committee were told by several withnesses that the term 'asylum' used in the proviso to sub-clause (1) of this clause is out of place these days and the term had been given up long ago as it carried a certain stigma. Besides no asylum exists in India any more.

As the term finds a place in the Indian Lunacy Act, 1912, it was explained, it has to be kept, but proviso to sub-clause (1) of this clause has been amended to meet the objections.

21. *Clause* 8 [*Original Clause* 6]—The Committee are of the view that it is neither desirable nor proper to give powers to the Licensing Authority to sit in judgment whether there should be a psychiatric hospital or psychiatric nursing home in a particular area or not as there is a severe shortage of such services which will not be made up in the near future. The main function of the Licensing Authority should be to ensure that proper facilities for the treatment and care of mentally ill persons have been provided in these institutions.

Part (a) of this Clause has been amended accordingly.

22. *Clause* 9 [*Original Clause* 7]—The Committee are of the opinion that sometimes with the best of intentions, it is not possible for the Government to come forward with a building or other facilities for a psychiatric hospital or psychiatric nursing home. But there are always chances that philanthropists or charitableminded persons set up such institutions. But if licences for such institutions are not transferable or heritable, then in case the licensee dies or is ill and is not in a position to function as such, the institutions would be closed down which would go against the interests of the mentally ill inmates of the institutions.

The Committee, therefore, feel that such institutions once established, should continue to function provided they fulfill the prescribed conditions and the legal representatives of such licensees want to continue such institutions.

Sub-clauses (2) and (3) to this clause have been added accordingly.

23. *Original Clauses* 8 *and* 9.—(i) Original Clause 8 has been added as sub-clause (4) of re-numbered Clause 9.

(ii) *Original Clause* 9.—(a) The Committee feel that the Licensing Authority, before renewing licence for the continuance of the maintenance of the psychiatric hospital or psychiatric nursing home, should be given adequate time to make enquiries with a view to ensure that the institution is being properly maintained. The application for renewal of licence should, therefore, be made not less than one year before the date of expiry of the validity of licence.

(b) Omission of part (i) to proviso of original clause 9 is of a consequential nature.

Original Clause 9 has been amended accordingly and added as sub-clause (5) to re-numbered clause 9.

24. *Clause* 10.—The Committee are of the view that in order to ensure that proper facilities are provided in all the psychiatric hospitals or psychiatric nursing homes, every such institution, whether holding a licence under the provisions of the Bill or not, should be required to maintain it in accordance with the prescribed conditions.

The Clause has been amended accordingly.

25. *Clause* 11.—The Committee feel that since the primary object of the proposed Bill is to provide for the treatment of mental illness, the maintenance of the psychiatric hospital or the psychiatric nursing home

should not only be carried on for the moral and physical well-being of the inpatients thereof but it should also be carried on in such a manner that it is not deterimental to their mental well-being. In case of failure in this respect the Licensing Authority should be vested with power to revoke the licence.

Part (b) of this Clause has been amended accordingly.

26. *Clause* 13.—(i) The Committee are of the opinion that personal records of a patient, which are of a confidential nature kept in the psychiatric hospital or psychiatric nursing home, should be kept confidential. The inspection of the institution by the Inspecting Officer need not be done necessarily in the presence of the medical officer-in-charge.

Proviso to sub-clause (1) of this Clause has been amended accordingly.

(ii) Part (b) of sub-clause (2) of this Clause has been amended as there was repetition which was considered unnecessary.

27. *Clause* 14.—The Committee are of the opinion that in order to ensure that there are facilities for out-door treatment of the mentally ill persons, every psychiatric hospital or psychiatric nursing home, whether run by Government or private agencies, should make provision for such facilities of prescribed standard.

The Clause has been amended accordingly.

28. *Clause* 15.—The amendments made in this Clause are to keep the provisions for admission on voluntary basis for majors and minors separately and are of a clarificatory nature.

Sub-clauses (2) and (3) have been renumbered accordingly as Clauses 16 and 17 respectively.

29. *Original Clause* 16.—The Committee are of the opinion that it is not desirable to make discrimination between voluntary patients and others so far as payment of cost of maintenance is concerned. It should better be left to be regulated according to orders of the institution concerned who may make rules for payment according to the income of the patients as in the case of general patients.

The Clause has, therefore, been omitted.

30. *Original Clause* 17.—This clause has been added as sub-clause (2) to renumbered Clause 17 and the amendments made therein are of a consequential and drafting nature.

31. *Clause* 18.—(i) The Committee are of the opinion that granting leave of absence to a voluntary patient from 30 to 180 days would lock up a bed and would deprive other patients of treatment facilities. Such a long leave of absence may also show that the patient needs no hospitalisation or is not serious about treatment. It should, therefore, be left to the discretion of the medical Officer-in-charge to grant him leave of absence as he may consider necessary and the total period of such leave should not in any case exceed sixty days.

Sub-clause (1) of this Clause has been amended accordingly.

(ii) The amendment made in sub-clause (2) of this Clause is of a drafting nature.

32. *Clause* 19.—The Committee have made certain amendments in this Clause as explained below:—

(i) The Committee feel that in the absence of a relative, a friend of the mentally ill person should also be allowed to make an application for his admission in a psychiatric hospital or psychiatric nursing home.

Sub-clause (1) of this clause has been amended accordingly.

(ii) The Committee also feel that in view of the limited number of psychiatrists in the country, the application for admission of a mentally ill person under special circumstances under-clause (1) of this Clause with certificates from two medical practitioners (one of whom shall be in Government service) should suffice and the certificate from a Psychiatrist need not be insisted upon.

Sub-clause (2) of this Clause has been amended accordingly.

(iii) The Committee further feel that where the applicant is unable to produce two medical certificates due to any reason, the medical officer-in-charge of the institution, if satisfied and deems it proper to do so, should cause the mentally ill person concerned to be examined by the two medical officers of the institution instead of two certificates required under sub-clause (2) of the Clause.

A new proviso to sub clause (2) of this Clause has been added accordingly.

33. *Clause* 22.—The amendment made in this clause is of a consequential nature.

34. *Clause* 23.—The Committee feel that in order to ensure that the application for a reception order for the detention of the alleged mentally ill person in a psychiatric hospital or psychiatric nursing home is genuine and without *mala fide* intentions, the medical certificates, furnished by the two medical practitioners alongwith such application, should invariably contain separate statement that the said each medical practitioner has independently examined him and had formed his opinion on the basis of his own observations and the particulars communicated to him.

Part (a) of Clause 23 has been amended accordingly and part (c) has been omitted.

35. *Clause* 24.—The Committee note that the information furnished in the application under sub-clause (3) of Clause 22 to the Magistrate for detention of the alleged mentally ill person under a reception order in a psychiatric hospital or psychiatric nursing home has been termed as 'allegations' in sub-clause (2) of Clause 24. The Committee feel that the information should better be termed as 'statements'.

Sub-clause (2) of this Clause has been amended accordingly.

36. *Clause* 27.—The Committee are of the opinion that not only the officer-in-charge of a Police Station but any person, as a matter of public duty, should be able to make a report to the Magistrate that a person,

who is mentally-ill, is uncared, ill-treated or neglected by the relative or other person having charge of such mentally ill person.

A new sub-clause (2) to this Clause has been added accordingly.

37. *Clause* 30.—The amendment made in this Clause is of a consequential nature.

38. *Clause* 31.—The Committee feel that the detention of a mentally ill person under orders of a Magistrate to enable the medical officer to observe the case for the issue of a certificate should be under proper medical supervision in an observation ward of an institution or in any other suitable place of detention.

Sub-clause (1) of this Clause has been amended accordingly.

39. *Clause* 32.—The Committee are of the opinion that some time-limit should be laid down for detention of a mentally ill person under reception order of a Magistrate pending his removal to psychiatric hospital or psychiatric nursing home so that he is not unduly detained for an indefinite period.

The Clause has been amended accordingly.

40. *Clauses* 34, 35, 36 *and* 37.—The amendments made in these clauses are of a clarificatory and drafting nature.

41. *Clause* 40.—The Committee are of the opinion that since most of the mentally ill patients admitted in a psychiatric hospital or psychiatric nursing home are not prisoners, the Inspector-General of Prisons need not be appointed as a visitor.

Sub-clause (2) of this clause has been amended accordingly.

42. *Clause* 41.—The Committee feel that it should be made obligatory on the part of visitors to examine every minor admitted as a voluntary patient in a psychiatric hospital or psychiatric nursing home invariably once in a month.

The Clause has been amended accordingly.

43. *Clause* 42.—The Committee are of the opinion that where a mentally ill person is detained under the provisions of the Air Force Act, 1950 or the Army Act, 1950 or the Navy Act, 1957 or under the Code of Criminal Procedure, 1973 in a psychiatric hospital or psychiatric nursing home, the Inspector-General of Prisons need not visit such person at such institution.

The Committee also feel that the inspection of the mentally ill person, with a view to assess the state of his mind, by the visitors should be done once in three months rather than in six months as proposed. This would help in keeping things upto the required standard.

Part (ii) of sub-clause (1) of this Clause has been amended accordingly.

44. *Clause* 43.—The Committee were informed that from the past experience it is found that the visitors often do not make a quorum of three with the result that the patient who has been waiting and hoping

for discharge for a long time is kept back. The Committee are, therefore, of the opinion that powers should instead be given to the Medical officer-in-charge to discharge the patient when he thinks that patient is fit for discharge as certified by doctors working in the institution and looking after the patient.

Sub-clause (1) of this Clause has been amended accordingly.

45. *Clause* 46.—The Committee feel that a person (not being a prisoner) who has been detained and who feels that he has recovered from his mental illness may make a request to the Magistrate for his discharge if the medical officer incharge does not accept his request.

Sub-clause (1) of this clause has been amended accordingly.

46. *Clause* 48.—The amendment made in this clause is of a consequential nature.

47. *Clause* 50.—The amendment made in this clause is of a consequential nature.

48. *Clause* 52.—The Committee feel that a period of thirty days for preferring an appeal against the orders of a magistrate is too short a period and it might be extended to sixty days.

The Clause has been amended accordingly.

49. *New Clause* 60.—The Committee note that under the proposed provisions, the District Court and the Collector have been authorised to appoint suitable persons as Managers for the management of property of the mentally ill person and guardian for looking after such person. The Committee feel that in order to ensure that the property is not put to misuse or misappropriation, the legal heir of the mentally ill person should not be appointed as manager or guardian unless the authorities concerned, for sufficient reasons to be recorded in writing, consider such appointment for the benefit of such person.

New Clause has been added accordingly and as a result consequential amendments have been made in clause 56.

50. *Original Clause* 60.—Original Clause 60 has been re-numbered as sub-clause (2) of new Clause 60 and the amendments made therein are of a drafting and clarificatory nature.

51. *Original Clause* 82.—The Committee are of the opinion that it is not desirable to sell the property found in the possession of the mentally ill person found wandering and applying it towards the cost of his maintenance in a psychiatric hospital or psychiatric nursing home as it may cause besides hardship serve emotional trauma to such a person.

The Clause has, therefore, been omitted.

52. *Clause* 82 [*Original Clause* 83].—The Committee feel that it would be too harsh and cause great hardship to the mentally ill person or the person legally bound to maintain him if the cost of maintenance of the mentally ill person is realised as arrears of land revenue as contemplated in the proposed provisions.

Proviso to sub-clause (2) of this Clause has, therefore, been omitted.

53. *New Chapter VIII.*—The Committee note that the proposed Bill does not provide for protection of the human rights of the mentally ill persons. The Committee are of strong opinion that there should not be any violation of their human rights and they should not be subjected during treatment to any indignity (whether physical or mental) or cruelty. They also feel that such persons should in no case be subjected to harsh measures such as physical restraint while undergoing treatment unless considered absolutely necessary and then too for the minimum period necessary. They are also of the view that such persons should not be used for purposes of research unless it is for the purposes of their treatment and they have themselves or the guardians, as the case may be, given the consent. Their correspondence to and fro should also not be unnecessarily censored or interfered with.

A new Chapter has accordingly been added.

54. *Clauses* 85 *and* 94.—The amendments made in these clauses are of a consequential and drafting nature.

55. *Clause* 96.—The amendment made in this clause is of a drafting nature.

56. *Clause* 97.—The Committee have made certain amendments in this clause as explained hereunder:—

(i) The Committee feel that in order to maintain uniformity of standards and to provide for minimum adequate standards for treatment in every psychiatric hospital or psychiatric nursing home, the Central Government should be vested with powers to make rules for carrying out the provisions of the proposed legislation.

The Committee also feel that after the first rules have been made by the Central Government, and if the State Government want to repeal or amend those rules, the State Government should obtain prior approval of the Central Government.

Sub-clause (1) of Clause 97 has, therefore, been amended and a new proviso to this sub-clause has been added accordingly.

(ii) The Committee are of the opinion that the rules to be made for carrying out the provisions of the Bill should not only provide for the minimum facilities referred to in the proviso to sub-clause (5) of Clause 9 of the Bill, but they should also provide for psychiatrist-patient ratio; other medical or para-medical staff; space requirement; treatment facilities; and equipment.

Part (e) of sub-clause (2) of Clause 97 has been amended accordingly and re-numbered as part (f).

(iii) Part (k) of sub-clause (2) of this Clause has been amended so as to amplify the conditions referred to therein.

(iv) The Committee also feel that rules for the qualifications of persons to be appointed as Mental Health Authority and all other matters relating to such authorities as a consequence of a new Chapter having been included in the proposed Bill, should also be made.

New Part (a) to sub-clause (2) of Clause 97 has been added accordingly.

(v) Sub-clause (3) of this Clause has been omitted in view of Clause 88.

(vi) The other amendments made in this Clause are of a consequential nature as a consequence of amendments to other clauses having already been accepted.

57. *New Clause* 98.—A new Clause 98 requiring the Central Government to lay the rules to be made in pursuance of the provisions of the proposed Bill before each House of Parliament has also been added.

58. All other modifications not enumerated in the foregoing paragraphs are either of consequential or of drafting nature.

59. The Joint Committee recommend that the Bill, as amended, be passed.

NEW DELHI;
November 21, 1978
Kartika 30, 1900 (*S*).

SUSHILA NAYAR,
Chairman,
Joint Committee.

Bill No. 86-B of 1978

THE MENTAL HEALTH BILL, 1978

(AS REPORTED BY THE JOINT COMMITTEE)

(*Words side-lined or underlined indicate the amendments suggested by the Committee; asterists indicate omissions.*)

A

BILL

to consolidate and amend the law relating to the treatment and care of mentally ill persons, to make better provision with respect to their property and affairs and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Mental Health Act, 1978.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different States and for different provisions of this Act, and any reference in any provision to the commencement of this Act in a State shall be construed as a reference to the coming into force of that provision in that State.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "cost of maintenance", in relation to a mentally ill person admitted in a psychiatric hospital or psychiatric nursing home, shall mean the cost of such items as the State Government may, by general or special order, specify in this behalf; * * *

* * * * *

(*b*) "District Court" means, in any area for which there is a city civil court, that court, and in any other area the principal civil court of original jurisdiction, and includes any other civil court which the State Government may, by notification, specify as the court competent to deal with all or any of the matters specified in this Act;

(*c*) "Inspecting Officer" means a person authorised by the State Government or by the licensing authority to inspect any psychiatric hospital or psychiatric nursing home;

(*d*) "licence" means a licence granted under section 8;

(*e*) "licensee" means the holder of a licence;

(*f*) "licensed psychiatric hospital" or "licensed psychiatric nursing home" means a psychiatric hospital or psychiatric nursing home, as the case may be, licensed, or deemed to be licensed, under this Act;

(*g*) "licensing authority" means such officer or authority as may be specified by the State Government to be the licensing authority for the purposes of this Act;

(*h*) "Magistrate" means,—

(*1*) in relation to a metropolitan area within the meaning of clause (*k*) of section 2 of the Code of Criminal Procedure, 1973, a Metropolitan Magistrate; 2 of 1974.

(*2*) in relation to any other area, the Chief Judicial Magistrate, Sub-Divisional Judicial Magistrate or such other Judicial Magistrate of the first class as the State Government may, by notification, empower to perform the functions of a Magistrate under this Act;

(*i*) "medical officer" means a gazetted medical officer in the service of Government and includes a medical practitioner declared, by a general or special order of the State Government, to be a medical officer for the purposes of this Act;

(*j*) "medical officer in charge", in relation to any psychiatric hospital or psychiatric nursing home, means the medical officer who, for the time being, is in charge of that hospital or nursing home;

(*k*) "medical practitioner" means a person who possesses a recognised medical qualification as defined in clause (*h*) of section 2 of the Indian Medical Council Act, 1956, and whose name has been entered in a State Medical Register in accordance with the provisions of that Act; * * * 102 of 1956

(*l*) "mentally ill prisoner" means a mentally ill person for whose detention in, or removal to, a psychiatric hospital, psychiatric nursing home, jail or other place of safe custody, an order referred to in section 30 has been made;

(*m*) "mentally ill person" means a person who is in need of * treatment by reason of mental disorder; * * *

(*n*) "minor" means a person who has not completed the age of eighteen years;

(o) "notification" means a notification published in the Official Gazette;

(p) "prescribed" means prescribed by rules made under this Act;

(q) "psychiatric hospital" or "psychiatric nursing home" means a hospital or, as the case may be, a nursing home established or maintained by the Government or any other person for the treatment and care of mentally ill persons and includes a convalescent home established or maintained by the Government or any other person for such mentally ill persons; but does not include any general hospital or general nursing home established or maintained by the Government and which provides also for psychiatric services;

(*r*) "psychiatrist" means a medical practitioner possessing a post-graduate degree or diploma in psychiatry, recognised by the Medical Council of India, constituted under the Indian Medical Council Act, 1956, and includes, in relation to any State, any medical officer who, having regard to his knowledge and experience in psychiatry, has been declared by the Government of that State to be a psychiatrist for the purposes of this Act;

102 of 1956

(*s*) "reception order" means an order made under the provisions of this Act for the admission and detention of a mentally ill person in a psychiatric hospital or psychiatric nursing home;

(*t*) "relative" includes any person related to the mentally ill person by blood, marriage or adoption;

(*u*) "State Government" in relation to a Union territory means the Administrator thereof;

(*v*) "temporary treatment order" means a temporary treatment order passed by a Magistrate under section 20 or section 21.

CHAPTER II

MENTAL HEALTH AUTHORITIES

Central Authority for Mental Health Services.

3. (*1*) The Central Government shall establish an Authority for mental health with such designation as it may deem fit.

(*2*) The Authority established under sub-section (*1*) shall be subject to the superintendence, direction and control of the Central Government.

(*3*) The Authority established under sub-section (*1*) shall—

(*a*) be in charge of regulation, development, direction and coordination with respect to Mental Health Services under the Cen-

tral Government and all other matters which, under this Act, are the concern of the Central Government or any officer or authority subordinate to the Central Government;

(*b*) supervise the psychiatric hospitals and nursing homes and other Mental Health Service Agencies (including places in which mentally ill persons may be kept or detained) under the control of the Central Government;

(*c*) advise the Central Government on all matters relating to mental health; and

(*d*) discharge such other functions with respect to matters relating to mental health as the Central Government may require.

Explanation.—For the purposes of this section and section 4, "Mental Health Services" include, in addition to psychiatric hospitals and psychiatric nursing homes, observation wards, day-care centres, inpatient treatment in general hospitals, ambulatory treatment facilities and other facilities, convalescent homes and half-way-homes for mentally ill persons.

State Authority for Mental Health Services.

4. (*1*) The State Government shall establish an Authority for mental health with such designation as it may deem fit.

(*2*) The Authority established under sub-section (*1*) shall be subject to the superintendence, direction and control of the State Government.

(*3*) The Authority established under sub-section (*1*) shall—

(*a*) be in charge of regulation, development and co-ordination with respect to Mental Health Services under the State Government and all other matters which, under this Act, are the concern of the State Government or any officer or authority subordinate to the State Government;

(*b*) supervise the psychiatric hospitals and psychiatric nursing homes and other Mental Health Service Agencies (including places in which mentally ill persons may be kept or detained) under the control of the State Government;

(*c*) advise the State Government on all matters relating to mental health; and

(*d*) discharge such other functions with respect to matters relating to mental health as the State Government may require.

CHAPTER III

PSYCHIATRIC HOSPITALS AND PSYCHIATRIC NURSING HOMES

Establishment or maintenance of psychiatric hospitals and psychiatric nursing homes.

5. (*1*) **The Central Government may, in any part of India, or the State Government may, within the limits of its jurisdiction, establish or maintain psychiatric hospitals or psychiatric nursing homes for the admission, treatment and care of mentally ill persons at such places as it thinks fit; and separate psychiatric hospitals and psychiatric nursing homes may be established or maintained for,—**

(*a*) **those who are under the age of sixteen years.**

(*b*) **those who are addicted to alcohol or other drugs which lead to behavioural changes in a person;**

(*c*) **those who have been convicted of any offence; and**

(*d*) those belonging to such other class or category of persons as may be prescribed.

(2) Where a psychiatric hospital or psychiatric nursing home is established or maintained by the Central Government, any reference in this Act to the State Government shall, in relation to such hospital or nursing home, be construed as a reference to the Central Government.

Establishment or maintenance of psychiatric hospitals or psychiatric nursing homes only with licence.

6. (*1*) On and after the commencement of this Act, no person shall establish or maintain a psychiatric hospital or psychiatric nursing home unless he holds a valid licence granted to him under this Act:

Provided that a psychiatric hospital or psychiatric nursing home (whether called asylum or by any other name), licensed by the Central Government or any State Government and maintained as such immediately before the commencement of this Act may continue to be maintained, and shall be deemed to be a licensed psychiatric hospital or licensed psychiatric nursing home, as the case may be, under this Act,—

(*a*) for a period of three months from such commencement, or

(*b*) if an application made in accordance with section 7 for a licence is pending on the expiry of the period specified in clause (*a*), till the disposal of such application.

(*2*) Nothing contained in sub-section (*1*) shall apply to a psychiatric hospital or psychiatric nursing home established or maintained by the Central Government or State Government.

Application for licence.

7. (*1*) Every person, who holds, at the commencement of this Act, a valid licence authorising that person to establish or maintain any psychiatric hospital or psychiatric nursing home, shall, if the said person intends to establish or continue the maintenance of such hospital or nursing home after the expiry of the period referred to in clause (*a*) of the proviso to sub-section (*1*) of section 6, make, at least one month before the expiry of such period, an application to the licensing authority for the grant of a fresh licence for the establishment or maintenance of such hospital or nursing home, as the case may be.

(*2*) A person, who intends to establish or maintain, after the commencement of this Act, a psychiatric hospital or psychiatric nursing home, shall, unless the said person already holds a valid licence, make an application to the licensing authority for the grant of a licence.

(*3*) Every application under sub-section (*1*) or under sub-section (*2*) shall be in such form and be accompanied by such fee as may be prescribed.

Grant or refusal of licence.

8. On receipt of an application under section 7, the licensing authority shall make such inquiries as it may deem fit and where it is satisfied that—

(*a*) the establishment or maintenance of the psychiatric hospital or psychiatric nursing home or the continuance of the maintenance of any such hospital or nursing home established before the commencement of this Act is necessary * * *;

(*b*) the applicant is in a position to provide the minimum facilities prescribed for the admission, treatment and care of mentally ill persons; and

(c) the psychiatric hospital or the psychiatric nursing home, will be under the charge of a medical officer who is a psychiatrist,

it shall grant a licence to the applicant in the prescribed form, and, where it is not so satisfied, the licensing authority shall, by order, refuse to grant the licence applied for:

Provided that, before making any order refusing to grant a licence, the licensing authority shall give to the applicant a reasonable opportunity of being heard and every order of refusal to grant a licence shall set out therein the reasons for such refusal and such reasons shall be communicated to the applicant in such manner as may be prescribed.

Duration and renewal of licence.

9. (1) A licence shall not be transferable or heritable.

(2) Where a licensee is unable to function as such for any reason or where a licensee dies, the licensee or, as the case may be, the legal representative of such licensee shall forthwith report the matter in the prescribed manner to the licensing authority and notwithstanding anything contained in sub-section (1), the psychiatric hospital or psychiatric nursing home concerned may continue to be maintained and shall be deemed to be a licensed psychiatric hospital or licensed psychiatric nursing home, as the case may be,—

(a) for a period of three months from the date of such report or in the case of the death of the licensee from the date of his death, or

(b) if an application made in accordance with sub-section (3) for a licence is pending on the expiry of the period specified in clause (a), till the disposal of such application.

(3) The legal representative of the licensee referred to in sub-section (2), shall, if he intends to continue the maintenance of the psychiatric hospital or psychiatric nursing home after the expiry of the period referred to in sub-section (2), make, at least one month before the expiry of such period, an application to the licensing authority for the grant of a fresh licence for the maintenance of such hospital or nursing home, as the case may be, and the provisions of section 8 shall apply in relation to such application as they apply in relation to an application made under section 7.

(4) Every licence shall, unless revoked earlier under section 11, be valid for a period of five years from the date on which it is granted.

(5) A licence may be renewed, from time to time, on an application made in that behalf to the licensing authority, in such form and accompanied by such fee, as may be prescribed, and every such application shall * * * be made not less than one year before the date on which the period of validity of the licence is due to expire:

Provided that the renewal of a licence shall not be refused unless the licensing authority is satisfied that—

* * * * *

(i) the licensee is not in a position to provide in a psychiatric hospital or psychiatric nursing home, the minimum facilities pres-

cribed for the admission, treatment and care therein of mentally ill persons; or

(*ii*) the licensee is not in a position to provide a medical officer who is a psychiatrist to take charge of the psychiatric hospital or the psychiatric nursing home; or

(*iii*) the licensee has contravened any of the provisions of this Act or any rule made thereunder.

Psychiatric hospital and psychiatric nursing home to be maintained in accordance with prescribed conditions.

10. Every * * * psychiatric hospital or psychiatric nursing home shall be maintained in such manner and subject to such conditions as may be prescribed.

Revocation of licence.

11. (*1*) The licensing authority may, without prejudice to any other penalty that may be imposed on the licensee, by order in writing, revoke the licence if it is satisfied that—

(*a*) the psychiatric hospital or the psychiatric nursing home is not being maintained by the licensee in accordance with the provisions of this Act or the rules made thereunder; or

(*b*) the maintenance of the psychiatric hospital or psychiatric nursing home is being carried on in a manner detrimental to the moral, mental or physical well-being of the inpatients thereof:

Provided that no such order shall be made except after giving the licensee a reasonable opportunity of being heard, and every such order shall set out therein the grounds for the revocation of the licence and such grounds shall be communicated to the licensee in such manner as may be prescribed.

(*2*) Every order made under sub-section (*1*) shall contain a direction that the inpatients of the psychiatric hospital or psychiatric nursing home shall be transferred to such other psychiatric hospital or psychiatric nursing home as may be specified in that order and it shall also contain such provisions (including provisions by way of directions) as to the care and custody of such inpatients pending such transfer.

(*3*) Every order made under sub-section (*1*) shall take effect,—

(*a*) where no appeal has been preferred against such order under section 12, immediately on the expiry of the period prescribed for such appeal; and

(*b*) where such appeal has been preferred and the same has been dismissed, from the date of the order of such dismissal.

Appeal.

12. (*1*) Any person, aggrieved by an order of the licensing authority refusing to grant or renew a licence, or revoking a licence, may, in such manner and within such period as may be prescribed, prefer an appeal to the State Government:

Provided that the State Government may entertain an appeal preferred after the expiry of the prescribed period if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(*2*) Every appeal under sub-section (*1*) shall be made in such form and be accompanied by such fee as may be prescribed.

Inspection of psychiatric hospitals and psychiatric nursing homes and visiting of patients.

13. (*1*) An Inspecting Officer may, at any time, enter and inspect any psychiatric hospital or psychiatric nursing home and require the production of any records, which are required to be kept in accordance with the rules made in this behalf, for inspection:

Provided that any personal records of a patient so inspected shall be kept confidential except for the purposes of sub-section (*3*).

(*2*) The Inspecting Officer may interview in private any patient receiving treatment and care therein—

(*a*) for the purpose of inquiring into any complaint made by or on behalf of such patient as to the treatment and care, or

(*b*) in any case, where the Inspecting Officer has reason to believe that any inpatient is not receiving proper treatment and care.

* * * * *

(*3*) Where the Inspecting Officer is satisfied that any inpatient in a psychiatric hospital or psychiatric nursing home is not receiving proper treatment and care, he may report the matter to the licensing authority and thereupon the licensing authority may issue such directions as it may deem fit to the medical officer in charge or the licensee of the psychiatric hospital, or, as the case may be, the psychiatric nursing home and every such medical officer in charge or licensee shall be bound to comply with such directions.

Treatment of outpatients.

14. Provision shall be made in every * psychiatric hospital or * psychiatric nursing home for such facilities as may be prescribed for the treatment of every mentally ill person, whose condition does not warrant his admission as an inpatient or who, for the time being, is not undergoing treatment as inpatient.

CHAPTER IV

ADMISSION AND DETENTION IN PSYCHIATRIC HOSPITAL OR PSYCHIATRIC NURSING HOME

PART I

Admission on voluntary basis

Application by major for admission as voluntary patient.

15. * Any person (not being a minor), who considers himself to be a mentally ill person and desires to be admitted to any psychiatric hospital or psychiatric nursing home for treatment, may make an application in that behalf in the prescribed form to the medical officer in charge for being admitted as a voluntary patient.

16. Where the guardian of a minor considers such minor to be a mentally ill person and desires to admit such minor in any psychiatric hospital or psychiatric nursing home for treatment, he may make an application in that behalf in the prescribed form to the medical officer in charge for admitting such minor as a voluntary patient. Application by guardian for admission of a ward.

17. (*1*) On receipt of an application under section 15 or section 16, the medical officer in charge shall make such inquiry as he may deem fit and if satisfied that the applicant or, as the case may be, the minor requires treatment as an inpatient in the psychiatric hospital or psychiatric nursing home, he may admit therein such applicant or, as the case may be, minor as a voluntary patient. Admission of, and regulation with respect to, voluntary patients.

(*2*) Every voluntary patient admitted to a psychiatric hospital or psychiatric nursing home shall be bound to abide by such regulations as may be made by the medical officer in charge or the licensee of the psychiatric hospital or psychiatric nursing home.

* * * * *

18. (*1*) The medical officer in charge of a psychiatric hospital or psychiatric nursing home shall, on an application made in that behalf by any voluntary patient, and, in the case of a minor voluntary patient, by the guardian of the patient, grant (unless such medical officer initiates action under sub-section (*3*) of section 20, within twenty-four hours of the receipt of such application, leave of absence to the patient for such period as the medical officer may deem necessary or discharge the patient from the psychiatric hospital or psychiatric nursing home: Leave of absence or discharge of voluntary patients.

Provided that the total number of days, for which leave of absence may be granted to a patient under this sub-section shall not exceed sixty days.

(*2*) Where a minor voluntary patient, who is admitted as an inpatient in any psychiatric hospital or psychiatric nursing home, attains majority, the medical officer in charge shall, as soon as may be, intimate the patient that he has attained majority and that, unless an application for his continuance as an inpatient is made by him within a period of one month of such intimation, he shall, subject to the provisions contained in sub-section (*3*) of section 20 be discharged, and if before the expiry of the said period, no application is made to the medical officer in charge for his continuance as an inpatient, he shall (unless such medical officer initiates action under sub-section (*3*) of section 20 on the expiry of the said period, be discharged.

PART II

Admission under special circumstances

19. (*1*) Any mentally ill person who does not, or is unable to, express his willingness for admission as a voluntary patient, may be admitted and kept as an inpatient in a psychiatric hospital or psychiatric nursing home on an application made in that behalf by a relative or a friend of the mentally ill person if the medical officer in charge is satisfied that in the interests of the mentally ill person it is necessary so to do: Admission of mentally ill persons under certain special circumstances.

Provided that no person so admitted as an inpatient shall be kept in the psychiatric hospital or psychiatric nursing home as an inpatient for a

period exceeding ninety days except in accordance with the other provisions of this Act.

(2) Every application under sub-section (1) shall be in the prescribed form and be accompanied by two medical certificates, from two medical practitioners * * * of whom one shall be a medical practitioner in the service of Government, to the effect that the condition of such mentally ill person is such that he should be kept under observation and treatment as an inpatient in a psychiatric hospital or psychiatric nursing home:

Provided that the medical officer in charge of the psychiatric hospital or psychiatric nursing home concerned may, if satisfied that it is proper so to do, cause a mentally ill person to be examined by two medical practitioners working in the hospital or in the nursing home instead of requiring such certificates.

(3) Any mentally ill person admitted under sub-section (1) or his relative or friend may apply to the Magistrate for his discharge and the Magistrate may, after giving notice to the person at whose instance he was admitted to the psychiatric hospital or psychiatrc nursing home and was admitted to the psychiatric hospital or psychiatric nursing home and application.

(4) The provisions of the foregoing sub-sections shall be without prejudice to the powers exercisable by a Magistrate before whom the case of a mentally ill person is brought, whether under this section or under any other provision of this Act, to pass a temporary treatment order or a reception order, as the case may be, if he is satisfied that it is necessary so to do in accordance with the relevant provisions of this Act.

PART III

Temporary treatment orders

Temporary treatment orders.

20. (1) Any relative or friend of a mentally ill person may make an application to the Magistrate within the local limits of whose jurisdiction such mentally ill person ordinarily resides for the admission of the mentally ill person to any psychiatric hospital or psychiatric nursing home for treatment for a temporary period.

(2) Every application under sub-section (1) shall be in the prescribed form and be accompanied by two medical certificates, from two medical practitioners * * * of whom one shall be a medical practitioner in the service of Government, to the effect that the condition of such mentally ill person is such that he should be kept under observation and treatment as an inpatient in a psychiatric hospital or psychiatric nursing home.

(3) Where, before granting leave of absence or discharging a voluntary patient under section 18, the medical officer in charge of any psychiatric hospital or psychiatric nursing home is of opinion that the voluntary patient is likely to act in a manner which will be injurious to his health or will endanger his own life or the life of others, the medical officer in charge may make an application to the Magistrate within the local limits of whose jurisdiction the psychiatric hospital or the psychiatric nursing home is situate, for the detention of the patient in the psychiatric hospital or, as the case may be, psychiatric nursing home for further treatment.

(4) Where the medical officer in charge of any psychiatric hospital or psychiatric nursing home is of opinion that any mentally ill person undergoing treatment as an outpatient in that hospital or nursing home is likely to act in a manner which will be injurious to his health or will endanger his own life or the life of others, the medical officer in charge may make an application to the Magistrate within the local limits of whose jurisdiction the psychiatric hospital or the psychiatric nursing home is situate, for the detention of the patient in any psychiatric hospital or psychiatric nursing home for treatment as an inpatient.

(5) On receipt of an application under sub-section (1) or sub-section (3) or sub-section (4), the Magistrate may, after making such inquiries as he may deem fit, if satisfied that in the interests of the health and personal safety of the mentally ill person or for the protection of others, he should be detained as an inpatient in a psychiatric hospital or psychiatric nursing home, pass a temporary treatment order for the detention for treatment of such person in such psychiatric hospital or psychiatric nursing home and for such period not exceeding six months from the date of the order, as may be specified therein.

Discharge of persons detained in psychiatric hospital or psychiatric nursing home under temporary treatment orders.

21. (1) Every mentally ill person detained for treatment in any psychiatric hospital or psychiatric nursing home under a temporary treatment order shall, on the expiry of the period of detention specified in the order, be discharged from such hospital or, as the case may be, nursing home:

Provided that where the period of detention specified in the temporary treatment order is less than six months and the medical officer in charge is of opinion that the treatment of such person as an inpatient should be continued beyond the period specified in that order, he may, before the expiry of the said period, make an application for the extension of the period to the Magistrate within the local limits of whose jurisdiction the psychiatric hospital or, as the case may be, psychiatric nursing home is situate.

(2) On receipt of an application under sub-section (1), the Magistrate shall deal with it in the manner specified in sub-section (5) of section 20; so, however, that the period of further detention together with the period specified in the temporary treatment order made under the said sub-section (5), shall not exceed, in the aggregate, six months.

PART IV

Reception orders

A.—Reception orders on applications

Application for reception order.

22. (1) An application for a reception order may be made by—

(a) the medical officer in charge of a psychiatric hospital or psychiatric nursing home, or

(b) by the husband, wife or any other relative of the mentally ill person.

(2) Where a medical officer in charge of a psychiatric hospital or psychiatric nursing home in which a mentally ill person is undergoing treatment under a temporary treatment order is satisfied that—

(a) the mentally ill person is suffering from mental disorder of such a nature and degree that his treatment in the psychiatric hos-

pital or, as the case may be, psychiatric nursing home is required to be continued for more than six months, or

(*b*) it is necessary in the interests of the health and personal safety of the mentally ill person or for the protection of others that such person shall be detained in a psychiatric hospital or psychiatric nursing home, or

(*c*) a temporary treatment order would not be adequate in the circumstances of the case,

he may make an application to the Magistrate within the local limits of whose jurisdiction the psychiatric hospital or, as the case may be, psychiatric nursing home is situate, for the detention of such mentally ill person under a reception order in such psychiatric hospital or psychiatric nursing home, as the case may be.

(3) Subject to the provisions of sub-section (5), the husband or wife of a person who is alleged to be mentally ill or, where there is no husband or wife, or where the husband or wife is prevented by reason of any illness or absence from India or otherwise from making the application, any other relative of such person may make an application to the Magistrate within the local limits of whose jurisdiction the said person ordinarily resides, for the detention of the alleged mentally ill person under a reception order in a psychiatric hospital or psychiatric nursing home.

(4) Where the husband or wife of the alleged mentally ill person is not the applicant, the application shall contain the reasons for the application not being made by the husband or wife and shall indicate the relationship of the applicant with the alleged mentally ill person and the circumstances under which the application is being made.

(5) No person,—

(*i*) who is a minor, or

(*ii*) who, within fourteen days before the date of the application, has not seen the alleged mentally ill person,

shall make an application under this section.

(6) Every application under sub-section (3) shall be made in the prescribed form and shall be signed and verified in the prescribed manner and shall state whether any previous application had been made for inquiry into the mental condition of the alleged mentally ill person and shall be accompanied by two medical certificates from two medical practitioners * * * of whom one shall be a medical practitioner in the service of Government.

Form and contents of medical certificates.

23. Every medical certificate referred to in sub-section (6) of section 22 shall contain a statement,—

(*a*) that each of the medical practitioners referred to in that sub-section has independently examined the alleged mentally ill person and has formed his opinion on the basis of his own observations and from the particulars communicated to him; and

(*b*) that in the opinion of each such medical practitioner the alleged mentally ill person is suffering from mental disorder of such a nature and degree as to warrant the detention of such person in a

psychiatric hospital or psychiatric nursing home and that such detention is necessary in the interests of the health and personal safety of that person or for the protection of others. *

* * * * *

Procedure upon application for reception order.

24. (*1*) On receipt of an application under sub-section (*2*) of section 22, the Magistrate may make a reception order, if he is satisfied that—

(*i*) the mentally ill person is suffering from mental disorder of such a nature and degree that it is necessary to detain him in a psychiatric hospital or psychiatric nursing home for treatment; or

(*ii*) it is necessary in the interests of the health and personal safety of the mentally ill person or for the protection of others that he should be so detained, and a temporary treatment order would not be adequate in the circumstances of the case and it is necessary to make a reception order.

(*2*) On receipt of an application under sub-section (*3*) of section 22, the Magistrate shall consider the statements made in the application and the evidence of mental illness as disclosed by the medical certificates.

(*3*) If the Magistrate considers that there are sufficient grounds for proceeding further, he shall personally examine the alleged mentally ill person unless, for reasons to be recorded in writing, he thinks that it is not necessary or expedient to do so.

(*4*) If the Magistrate is satisfied that a reception order may properly be made forthwith, he may make such order, and if the Magistrate is not so satisfied, he shall fix a date for further consideration of the application and may make such inquiries concerning the alleged mentally ill person as he thinks fit.

(*5*) The notice of the date fixed under sub-section (*4*) shall be given to the applicant and to any other person to whom, in the opinion of the Magistrate, such notice shall be given.

(*6*) If the Magistrate fixes a date under sub-section (*4*) for further consideration of the application, he may make such order as he thinks fit, for the proper care and custody of the alleged mentally ill person pending disposal of the application.

(*7*) On the date fixed under sub-section (*4*), or on such further date as may be fixed by the Magistrate, he shall proceed to consider the application *in camera*, in the presence of—

(*i*) the applicant;

(*ii*) the alleged mentally ill person (unless the Magistrate in his discretion otherwise directs);

(*iii*) the person who may be appointed by the alleged mentally ill person to represent him; and

(*iv*) such other person as the Magistrate thinks fit,

and if the Magistrate is satisfied that the alleged mentally ill person, in relation to whom the application is made, is so mentally ill that in the

interests of the health and personal safety of that person or for the protection of others it is necessary to detain him in a psychiatric hospital or psychiatric nursing home for treatment, he may pass a reception order for that purpose and if he is not so satisfied, he shall dismiss the application and any such order may provide for the payment of the costs of the inquiry by the applicant personally or from out of the estate of the mentally ill person, as the Magistrate may deem appropriate.

(8) If any application is dismissed under sub-section (7), the Magistrate shall record the reasons for such dismissal and a copy of the order shall be furnished to the applicant.

B.—Reception orders on production of mentally ill persons before Magistrate

Powers and duties of police officers in respect of certain mentally ill persons.

25. (1) Every officer in charge of a police station,—

(a) may arrest or cause to be arrested any person found wandering at large within the limits of his station whom he has reason to believe to be so mentally ill as to be incapable of taking care of himself, and

(b) shall arrest or cause to be arrested any person within the limits of his station whom he has reason to believe to be dangerous by reason of mental illness.

(2) No person arrested under sub-section (1) shall be detained in police custody without being informed, as soon as may be, of the grounds for such arrest, or where, in the opinion of the arresting officer, such person is not capable of understanding those grounds, without his relatives or friends, if any, being informed of such grounds.

(3) Every person, who is arrested and detained in custody under this section, shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate and shall not be detained in custody beyond the said period without the authority of the Magistrate.

Procedure on production of mentally ill person.

26. (1) If a person is produced before a Magistrate under sub-section (3) of section 25, and if, in his opinion, there are sufficient grounds for proceeding further, the Magistrate shall,—

(a) examine the person to assess his capacity to understand,

(b) cause him to be examined by a medical officer, and

(c) make such inquiries in relation to such person as he may deem necessary.

(2) After the completion of the proceedings under sub-section (1), the Magistrate may pass a reception order authorising the detention of the said person as an inpatient in a psychiatric hospital or psychiatric nursing home,—

(a) if the medical officer certifies such person to be a mentally ill person, and

(b) if the Magistrate is satisfied that the said person is a mentally ill person and that in the interests of the health and personal safety of that person or for the protection of others, it is necessary to pass such order:

Provided that if any relative or friend of the mentally ill person desires that the mentally ill person be sent to any particular licensed psychiatric hospital or licensed psychiatric nursing home for treatment therein and undertakes in writing to the satisfaction of the Magistrate to pay the cost of maintenance of the mentally ill person in such hospital or nursing home, the Magistrate shall, if the medical officer in charge of such hospital or nursing home consents, make a reception order for the admission of the mentally ill person into that hospital or nursing home and detention therein:

Provided further that if any relative or friend of the mentally ill person enters into a bond, with or without sureties for such amount as the Magistrate may determine, undertaking that such mentally ill person will be properly taken care of and shall be prevented from doing any injury to himself or to others, the Magistrate may, instead of making a reception order, hand him over to the care of such relative or friend.

Order in case of mentally ill person cruelly treated or not under proper care and control.

27. (1) Every officer in charge of a police station, who has reason to believe that any person within the limits of his station is mentally ill and is not under proper care and control, or is ill-treated or neglected by any relative or other person having charge of such mentally ill person, shall forthwith report the fact to the Magistrate within the local limits of whose jurisdiction the mentally ill person resides.

(2) Any private person who has reason to believe that any person is mentally ill and is not under proper care and control, or is ill-treated or neglected by any relative or other person having charge of such mentally ill person, may report the fact to the Magistrate within the local limits of whose jurisdiction the mentally ill person resides.

(3) If it appears to the Magistrate, on the report of a police officer or on report or information derived from any other person, or otherwise, that any mentally ill person within the local limits of his jurisdiction is not under proper care and control, or is ill-treated or neglected by any relative or other person having the charge of such mentally ill person, the Magistrate may cause the mentally ill person to be produced before him, and summon such relative or other person who is, or who ought to be in charge of, such mentally ill person.

(4) If such relative or any other person is legally bound to maintain the mentally ill person, the Magistrate may, by order, require the relative or the other person to take proper care of such mentally ill person and where such relative or other person wilfully neglects to comply with the said order, he shall be punishable with fine which may extend to one thousand rupees.

(5) If there is no person legally bound to maintain the mentally ill person, or if the person legally bound to maintain the mentally ill person refuses or neglects to maintain such person, or if, for any other reason, the Magistrate thinks fit so to do, he may cause the mentally ill person to be produced before him and, without prejudice to any action that may be taken under sub-section (4), proceed in the manner provided in section 26 as if such person had been produced before him under sub-section (3) of section 25.

C.—*Admission in emergencies*

Application for admission of mentally ill persons in emergency.

28. (*1*) Where any medical officer or medical practitioner or any relative or friend of a mentally ill person is of opinion that unless such mentally ill person is immediately admitted to any psychiatric hospital or psychiatric nursing home for treatment, the health and personal safety of such person or of others will be in imminent danger, he may make an application to the medical officer in charge of any psychiatric hospital or psychiatric nursing home for admission forthwith of such mentally ill person to the psychiatric hospital or, as the case may be, psychiatric nursing home under his charge.

(*2*) Every application under sub-section (*1*) shall be in the prescribed form containing a statement that unless the mentally ill person is forthwith admitted to any psychiatric hospital or psychiatric nursing home, there is imminent danger to the health and personal safety of such person or of others, and shall be supported by a certificate to that effect in the prescribed form from a medical practitioner, and, wherever possible, from a medical practitioner who is acquainted with the condition of the mentally ill person.

Explanation.—For the removal of doubts it is hereby declared that where an application under sub-section (*1*) is made by a medical officer or medical practitioner such application shall be accompanied by a certificate referred to in this sub-section from another medical practitioner.

(*3*) On receipt of an application under sub-section (*1*), the medical officer in charge shall admit the mentally ill person to the psychiatric hospital or the psychiatric nursing home under his charge subject to the conditions that such mentally ill person shall be produced before a nearest Magistrate within the local limits of whose jurisdiction such hospital or nursing home is situate, within a period of seventy-two hours of such admission, excluding the time necessary for the journey from the place of admission to the court of the Magistrate and if it is necessary to continue treatment of the person as an inpatient beyond the period aforesaid, the authority of the Magistrate shall be obtained for such detention.

(*4*) Where due to the condition of the patient it is not possible to produce the mentally ill person before a Magistrate within the time set out under sub-section (*3*), the medical officer in charge shall request the Magistrate to visit the psychiatric hospital, or psychiatric nursing home, as the case may be, so as to enable him to comply with the provisions of sub-section (*3*) and the Magistrate shall comply with the request.

(*5*) The Magistrate may, if satisfied, on the basis of the medical certificate filed in support of an application under sub-section (*1*) and on the basis of such other inquiry as he may deem necessary, pass an order for the detention of the person for such period as may be specified in the order.

(*6*) Where the Magistrate is of opinion that it is necessary so to do, he may treat the application under sub-section (*1*), or any subsequent application that may be made for continuing the detention as if it were

an application for reception order under this Act and proceed to deal with it accordingly.

D.—Further provisions regarding admission and detention of certain mentally ill persons

Admission as inpatient after inquisition.

29. If any District Court holding an inquisition under Chapter VI regarding any person who is found to be mentally ill is of opinion that it is necessary so to do in the interests of such person, it may, by order, direct that such person shall be admitted and kept as an inpatient in a psychiatric hospital or psychiatric nursing home and every such order may be varied from time to time or revoked by the District Court.

Admission and detention of mentally ill prisoner.

3 of 1900. 45 of 1950. 46 of 1950. 62 of 1957. 2 of 1974.

30. An order under section 30 of the Prisoners Act, 1900, or under section 144 of the Air Force Act, 1950, or under section 145 of the Army Act, 1950, or under section 143 or section 144 of the Navy Act, 1957, or under section 330 or section 335 of the Code of Criminal Procedure, 1973, directing the reception of a mentally ill prisoner into any psychiatric hospital or psychiatric nursing home, shall be sufficient authority for the admission of such person in such hospital or, as the case may be, such nursing home or any other psychiatric hospital or psychiatric nursing home to which such person may be lawfully transferred for detention therein.

Detention of alleged mentally ill person pending report by medical officer.

31. (*1*) When any person alleged to be a mentally ill person appears or is brought before a Magistrate under section 25 or section 27, the Magistrate may, by order in writing, authorise the detention of the alleged mentally ill person under proper medical custody in an observation ward of a general hospital or general nursing home or psychiatric hospital or psychiatric nursing home or in any other suitable place for such period not exceeding ten days as the Magistrate may consider necessary for enabling any medical officer to determine whether a medical certificate in respect of that alleged mentally ill person may properly be given under clause (*a*) of sub-section (*2*) of section 26.

(*2*) The Magistrate may, from time to time, for the purpose mentioned in sub-section (*1*), by order in writing, authorise such further detention of the alleged mentally ill person for periods not exceeding ten days at a time as he may deem necessary:

Provided that no person shall be authorised to be detained under this sub-section for a continuous period exceeding thirty days in the aggregate.

Detention of mentally ill person pending his removal to psychiatric hospital or psychiatric nursing home.

32. Whenever any reception order is made by a Magistrate under section 24, section 26 or section 27, he may, for reasons to be recorded in writing, direct that the mentally ill person in respect of whom the order is made may be detained for such period not exceeding thirty days in such place as he may deem appropriate, pending the removal of such person to a psychiatric hospital or psychiatric nursing home.

E.—Miscellaneous provisions in relation to orders under this Chapter

Time and manner of medical examination of mentally ill person.

33. Where any order under this Chapter is required to be made on the basis of a medical certificate, such order shall not be made unless the person who has signed the medical certificate, or where such order is required to be made on the basis of two medical certificates, the signatory of the respective certificates, has certified that he has personally examined the alleged mentally ill person,—

(*i*) in the case of an order made on application, not earlier than ten clear days immediately before the date on which such application is made; and

(*ii*) in any other case, not earlier than ten clear days immediately before the date of such order:

Provided that where a reception order is required to be made on the basis of two medical certificates such order shall not be made unless the certificates show that the signatory of each certificate examined the alleged mentally ill person independently of the signatory of the other certificate.

Authority for reception order or for temporary treatment order.

34. A temporary treatment order or a reception order made under this Chapter shall be sufficient authority—

(*i*) for the applicant or any person authorised by him, or

(*ii*) in the case of a reception order made otherwise than on an application, for the person authorised so to do by the authority making the order,

to take the mentally ill person to the place mentioned in such order or for his admission and treatment as an inpatient in the psychiatric hospital or psychiatric nursing home specified in the order or, as the case may be, for his admission and detention therein, or in any psychiatric hospital or psychiatric nursing home to which he may be removed in accordance with the provisions of this Act, and the medical officer in charge shall be bound to comply with such order:

Provided that in any case where the medical officer in charge finds accommodation in the psychiatric hospital or psychiatric nursing home inadequate, he shall, after according admission, intimate that fact to the Magistrate or the District Court which passed the order and thereupon the Magistrate or the District Court, as the case may be, shall pass such order as he or it may deem fit:

Provided further that every temporary treatment order or reception order shall cease to have effect—

(*a*) on the expiry of thirty days from the date on which it was made, unless within that period, the mentally ill person has been admitted to the place mentioned therein, and

(*b*) on the discharge, in accordance with the provisions of this Act, of the mentally ill person.

Copy of temporary treatment order or reception order to be sent to medical officer in charge

35. Every Magistrate or District Court making a temporary treatment order or reception order shall forthwith send a certified copy thereof together with copies of the requisite medical certificates and the statement of particulars to the medical officer in charge of the psychiatric hospital or psychiatric nursing home to which the mentally ill person is to be admitted.

Restriction as to psychiatric hospitals and psychiatric nursing homes into which temporary treatment order or reception order may direct admission.

36. No Magistrate or District Court shall pass a temporary treatment order or a reception order for the admission as an inpatient to, or for the detention of any mentally ill person in, any psychiatric hospital or psychiatric nursing home outside the State in which the Magistrate or the District Court exercises jurisdiction:

Provided that an order for admission or detention into or in a psychiatric hospital or psychiatric nursing home situated in any other State may be passed if the State Government has, by general or special order and after obtaining the consent of the Government of such other State authorised the Magistrate or the District Court in that behalf.

Amendment of order or documents.

37. If, after the admission of any mentally ill person to any psychiatric hospital or psychiatric nursing home under a temporary treatment order or a reception order, it appears that the order under which he was admitted or detained or any of the documents on the basis of which such order was made is defective or incorrect, the same may, at any time thereafter, be amended with the permission of the Magistrate or the District Court, by the person or persons who signed the same and upon such amendment being made, the order shall have effect and shall be deemed always to have had effect as if it had been originally made as so amended, or, as the case may be, the documents upon which it was made had been originally furnished as so amended.

Power to appoint substitute for person upon whose application reception order has been made.

38. (*1*) Subject to the provisions of this section the Magistrate may, by order in writing (hereinafter referred to as the order of substitution), transfer the duties and responsibilities under this Act, of the person on whose application a reception order was made, to any other person who is willing to undertake the same and such other person shall thereupon be deemed for the purposes of this Act to be the person on whose application the reception order was made and all references in this Act to the latter person shall be construed accordingly:

Provided that no such order of substitution shall absolve the person upon whose application the reception order was made or, if he is dead, his legal representatives, from any liability incurred before the date of the order of substitution.

(*2*) Before making any order of substitution, the Magistrate shall send a notice to the person on whose application the reception order was made, if he is alive, and to any relative of the mentally ill person who, in the opinion of the Magistrate, shall have notice.

(*3*) The notice under sub-section (*2*) shall specify the name of the person in whose favour it is proposed to make the order of substitution

and the date (which shall be not less than twenty days from the date of issue of the notice) on which objections, if any, to the making of such order shall be considered.

(4) On the date specified under sub-section (3), or on any subsequent date to which the proceedings may be adjourned, the Magistrate shall consider any objection made by any person to whom notice was sent, or by any other relative of the mentally ill person, and shall receive all such evidence as may be produced by or on behalf of any such person or relative and after making such inquiry as the Magistrate may deem fit, make or refrain from making the order of substitution:

Provided that, if the person on whose application the reception order was made is dead and any other person is willing and is, in the opinion of the Magistrate, fit to undertake the duties and responsibilities under this Act of the former person, the Magistrate shall, subject to the provisions contained in the proviso to sub-section (1), make an order to that effect.

(5) In making any substitution order under this section, the Magistrate shall give preference to the person who is the nearest relative of the mentally ill person, unless, for reasons to be recorded in writing, the Magistrate considers that giving such preference will not be in the interests of the mentally ill person.

(6) The Magistrate may make such order for the payment of the costs of an inquiry under this section by any person or from out of the estate of the mentally ill person as he thinks fit.

(7) Any notice under sub-section (2) may be sent by post to the last known address of the person for whom it is intended.

Officers competent to exercise powers and discharge functions of Magistrate under certain sections.

39. In any area where a Commissioner of Police has been appointed, all the powers and functions of the Magistrate under sections 25, 26, 27, 28 and 31 may be exercised or discharged by the Commissioner of Police and all the functions of an officer in charge of a police station under this Act may be discharged by any police officer not below the rank of an Inspector.

CHAPTER V

INSPECTION, DISCHARGE, LEAVE OF ABSENCE AND REMOVAL OF MENTALLY ILL PERSONS

PART I

Inspection

Appointment of Visitors.

40. (1) **The State Government shall appoint for every psychiatric hospital and every psychiatric nursing home in the State, not less than five Visitors, of whom at least one shall be a medical officer, preferably a psychiatrist.**

(2) **The * * * head of the Medical Services of the State shall be an *ex-officio* Visitor of all the psychiatric hospitals and psychiatric nursing homes in the State.**

(3) The qualifications of persons to be appointed as Visitors under sub-section (1) and the terms and conditions of their appointment shall be such as may be prescribed.

Monthly inspection by Visitors.

41. Not less than three Visitors shall, at least once in every month, make a joint inspection of every part of the psychiatric hospital or psychiatric nursing home in respect of which they have been appointed and examine every minor admitted as a voluntary patient under section 17 and, as far as circumstances will permit, every other mentally ill person admitted therein and the order for the admission of, and the medical certificates relating to, every mentally ill person admitted subsequent to the joint inspection immediately preceding, and shall enter in a book kept for that purpose such remarks as they deem appropriate in regard to the management and condition of such hospital or nursing home and of the inpatients thereof:

Provided that the Visitors shall not be entitled to inspect any personal records of an inpatient which in the opinion of the medical officer in charge are confidential in nature.

Inspection of mentally ill prisoners.

42. (*1*) Notwithstanding anything contained in section 41, where any person is detained under the provisions of section 144 of the Air Force Act, 1950, or section 145 of the Army Act, 1950, or section 143 or section 144 of the Navy Act, 1957, or section 330 or section 335 of the Code of Criminal Procedure, 1973,—

45 of 1950. 46 of 1950. 62 of 1957. 2 of 1974.

(*i*) the Inspector-General of Prisons, where such person is detained in a jail; and

(*ii*) * * * all or any three of the Visitors appointed under sub-section (*1*) of section 40, where such person is detained in a psychiatric hospital or psychiatric nursing home,

shall, once in every three months, visit such person at the place where he is detained, in order to assess the state of mind of such person and make a report thereon to the authority under whose order such person is so detained.

(2) The State Government may empower any of its officers to discharge all or any of the functions of the Inspector-General of Prisons under sub-section (*1*).

(3) The medical officer in charge of a psychiatric hospital or psychiatric nursing home wherein any person referred to in sub-section (*1*) is detained, shall once in every six months, make a special report regarding the mental and physical condition of such person to the authority under whose order such person is detained.

(4) Every person referred to in sub-section (*1*) who is detained in jail, shall be visited at least once in every three months by a psychiatrist, or, where a psychiatrist is not available, by a medical officer empowered by the State Government in this behalf and such psychiatrist or, as the case may be, such medical officer shall make a special report regarding the mental and physical condition of such person to the authority under whose order such person is detained.

PART II

Discharge

Order of discharge by medical officer in charge.

43. (*1*) Notwithstanding anything contained in Chapter IV, * * * the medical officer in charge of a psychiatric hospital or psychiatric nursing home may, on the recommendation of two medical practitioners working in that hospital or nursing home, by order in writing, direct the discharge of any person, other than a voluntary patient detained or undergoing treatment therein as an inpatient, and such person shall thereupon be discharged from the psychiatric hospital or psychiatric nursing home:

Provided that no order under this sub-section shall be made in respect of a mentally ill prisoner otherwise than as provided in section 30 of the Prisoners Act, 1900 or in any other relevant law. 3 of 1900.

(*2*) Where any order of discharge is made under sub-section (*1*) in respect of a person who has been detained or is undergoing treatment as inpatient in pursuance of an order of any authority, a copy of such order shall be immediately forwarded to that authority by the medical officer in charge.

Discharge of mentally ill person on application.

44. Any person detained in a psychiatric hospital or psychiatric nursing home under an order made in pursuance of an application made under this Act, shall be discharged on an application made in that behalf to the medical officer in charge by the person on whose application the order was made:

Provided that no person shall be discharged under this section if the medical officer in charge certifies in writing that the person is dangerous and unfit to be at large.

discharge on the undertaking of relatives or friends Order of etc., for due care of mentally ill person.

45. (*1*) Where any relative or friend of a mentally ill person detained in a psychiatric hospital or psychiatric nursing home under section 24, section 26, section 27 or section 28 desires that such person shall be delivered over to his care and custody, he may make an application to the medical officer in charge who shall forward it together with his remarks thereon to the authority under whose orders the mentally ill person is detained.

(*2*) Where an application is received under sub-section (*1*), the authority shall, on such relative or friend furnishing a bond, with or without sureties, for such amount as such authority may specify in this behalf, undertaking to take proper care of such mentally ill person, and ensuring that the mentally ill person shall be prevented from causing injury to himself or to others, make an order of discharge and thereupon the mentally ill person shall be discharged.

Discharge of person on his request.

46. (*1*) Any person (not being a mentally ill prisoner) detained in pursuance of an order made under this Act, who feels that he has recovered from his mental illness, may make an application to the Magistrate, where necessary under the provisions of this Act, for his discharge from the psychiatric hospital or the psychiatric nursing home.

(*2*) An application made under sub-section (*1*), shall be supported by a certificate either from the medical officer in charge of the psychiatric hospital or the psychiatric nursing home where the applicant is undergoing treatment or from a psychiatrist.

(*3*) The Magistrate may, after making such inquiry as he may deem fit, pass an order discharging the person or dismissing the application.

47. If any person detained in a psychiatric hospital or psychiatric nursing home in pursuance of a reception order made under this Act is subsequently found, on an inquisition held in accordance with the provisions of Chapter VI, to be of sound mind or capable of taking care of himself and managing his affairs, the medical officer in charge shall forthwith, on the production of a copy of such finding duly certified by the District Court, dicharge such person from such hospital or nursing home. Discharge of person subsequently found on inquisition not to be of unsound mind.

PART III

Leave of absence

48. (*1*) An application for leave of absence on behalf of any mentally ill person (not being a mentally ill prisoner) undergoing treatment as an inpatient in any psychiatric hospital or psychiatric nursing home may be made to the medical officer in charge,— Leave of absence.

(*a*) in the case of a person who was admitted on the application of the husband or wife, by the husband or wife of such mentally ill person, or where by reason of mental or physical illness, absence from India or otherwise, the husband or wife is not in a position to make such application, by any other relative of the mentally ill person duly authorised by the husband or wife, or

(*b*) in the case of any other person, by the person on whose application the mentally ill person was admitted:

Provided that no application under this sub-section shall be made by a person who has not attained the age of majority.

(*2*) Every application under sub-section (*1*) shall be accompanied by a bond, with or without sureties for such amount as the medical officer in charge may specify, undertaking—

(*i*) to take proper care of the mentally ill person,

(*ii*) to prevent the mentally ill person from causing injury to himself or to others, and

(*iii*) to bring back the mentally ill person to the psychiatric hospital or, as the case may be, psychiatric nursing home, on the expiry of the period of leave.

(*3*) On receipt of an application under sub-section (*1*) the medical officer in charge may grant leave of absence to the mentally ill person for such period as the medical officer in charge may deem necessary and subject to such conditions as may, in the interests of the health and personal safety of the mentally ill person or for the protection of others, be specified in the order:

Provided that the total number of days for which leave of absence may be granted to a patient under this sub-section shall not exceed sixty days.

(*4*) Where the mentally ill person is not brought back to the psychiatric hospital or psychiatric nursing home on the expiry of the leave granted to him under this section, the medical officer in charge shall forthwith report that fact to the Magistrate within the local limits of

whose jurisdiction such hospital or nursing home is situate and the Magistrate may, after making such inquiry as he may deem fit, make an order directing him to be brought back to the psychiatric hospital or psychiatric nursing home, as the case may be.

(5) Nothing contained in this section shall apply to a voluntary patient referred to in section 15 or section 16 and the provisions of section 18 shall apply to him.

Grant of leave of absence by Magistrate.

49. (*1*) Where the medical officer in charge refuses to grant leave of absence to a mentally ill person under section 48, the applicant may apply to the Magistrate within the local limits of whose jurisdiction the psychiatric hospital or psychiatric nursing home wherein the mentally ill person is detained is situate, for the grant of leave of absence to the mentally ill person and the Magistrate may, if he is satisfied that it is necessary so to do, and on the applicant entering into a bond in accordance with the provisions of sub-section (*2*), by order, grant leave of absence to the mentally ill person for such period and subject to such conditions as may be specified in the order.

(*2*) Every bond referred to in sub-section (*1*) shall be with or without sureties and for such amount as the Magistrate may decide and shall contain the undertaking referred to in sub-section (*2*) of section 48.

(*3*) The Magistrate shall forward a copy of his order to the medical officer in charge and on receipt of such order, the medical officer in charge shall entrust the mentally ill person to the person on whose application the leave of absence was granted under this section.

PART IV

Removal

Removal of mentally ill person from one psychiatric hospital or psychiatric nursing home to another.

50. (*1*) Any mentally ill person other than a voluntary patient referred to in section 15 or section 16 may, subject to any general or special order of the State Government, be removed from any psychiatric hospital or psychiatric nursing home to any other psychiatric hospital or psychiatric nursing home within the State, or to any other psychiatric hospital or psychiatric nursing home in any other State with the consent of the Government of that other State:

Provided that no mentally ill person admitted to a psychiatric hospital or psychiatric nursing home under an order made in pursuance of an application made under this Act shall be so removed unless intimation thereof has been given to the applicant.

(*2*) The State Government may make such general or special order as it thinks fit directing the removal of any mentally ill prisoner from the place where he is for the time being detained, to any psychiatric hospital, psychiatric nursing home, jail or other place of safe custody in the State or to any psychiatric hospital, psychiatric nursing home, jail or other place of safe custody in any other State with the consent of the Government of that other State.

Admission, detention and retaking in certain cases.

51. Every person brought into a psychiatric hospital or psychiatric nursing home under any order made under this Act, may be detained or, as the case may be, admitted as an inpatient therein until he is removed or is discharged under any law, and in case of his escape from such hospital or nursing home he may, by virtue of such order, be retaken by

any police officer or by the medical officer in charge or any officer or servant of such hospital or nursing home, or by any other person authorised in that behalf by the medical officer in charge, and conveyed to, and received and detained or, as the case may be, kept as an inpatient in such hospital or nursing home:

Provided that in the case of a mentally ill person (not being a mentally ill prisoner) the power to retake as aforesaid under this section shall not be exercisable after the expiry of a period of one month from the date of his escape.

Appeal from orders of Magistrate.

52. Any person aggrieved by any order of a Magistrate, passed under any of the foregoing provisions may, within sixty days from the date of the order, appeal against that order to the District Court within the local limits of whose jurisdiction the Magistrate exercised the powers, and the decision of the District Court on such appeal shall be final.

CHAPTER VI

JUDICIAL INQUISITION REGARDING ALLEGED MENTALLY ILL PERSON POSSESSING PROPERTY, CUSTODY OF HIS PERSON AND MANAGEMENT OF HIS PROPERTY

Application for judicial inquisition.

53. (*1*) Where an alleged mentally ill person is possessed of property, an application for holding an inquisition into the mental condition of such person may be made either—

(*a*) by any of his relatives, or

(*b*) by a public curator appointed under the Indian Succession Act, 1925, or

39 of 1925.

(*c*) by the Advocate-General of the State in which the alleged mentally ill person resides, or

(*d*) where the property of the alleged mentally ill person comprises land or interest in land, or where the property or part thereof is of such a nature as can lawfully be entrusted for management to a Court of Wards established under any law for the time being in force in the State, by the Collector of the District in which such land is situate,

to the District Court within the local limits of whose jurisdiction the alleged mentally ill person resides.

(*2*) On receipt of an application under sub-section (*1*), the District Court shall, by personal service or by such other mode of service as it may deem fit, serve a notice on the alleged mentally ill person to attend at such place and at such time as may be specified in the notice or shall, in like manner, serve a notice on the person having the custody of the alleged mentally ill person to produce such person at the said place and at the said time, for being examined by the District Court or by any other person from whom the District Court may call for a report concerning the mentally ill person:

Provided that, if the alleged mentally ill person is a woman, who according to the custom prevailing in the area where she resides or according to the religion to which she belongs, ought not to be compelled to appear in public, the District Court may cause her to be examined

by issuing a commission as provided in the Code of Civil Procedure, 1908. 5 of 1908.

(3) A copy of the notice under sub-section (2) shall also be served upon the applicant and upon any relative of the alleged mentally ill person or other person who, in the opinion of the District Court, shall have notice of judicial inquisition to be held by it.

(4) For the purpose of holding the inquisition applied for, the District Court may appoint two or more persons to act as assessors.

Issues on which finding should be given by District Court after inquisition.

54. On completion of the inquisition, the District Court shall record its findings on,—

(i) whether the alleged mentally ill person is in fact mentally ill or not, and

(ii) where such person is mentally ill, whether he is incapable of taking care of himself and of managing his property, or incapable of managing his property only.

Provision for appointing guardian of mentally ill person and for manager of property.

55. (1) Where the District Court records a finding that the alleged mentally ill person is in fact mentally ill and is incapable of taking care of himself and of managing his property, it shall make an order for the appointment of a guardian under section 56 to take care of his person and of a manager under section 57 for the management of his property.

(2) Where the District Court records a finding that the alleged mentally ill person is in fact mentally ill and is incapable of managing his property but capable of taking care of himself, it shall make an order under section 57 regarding the management of his property.

(3) Where the District Court records a finding that the alleged mentally ill person is not mentally ill, it shall dismiss the application.

(4) Where the District Court deems fit, it may appoint under sub-section (1) the same person to be the guardian and manager.

Appointment of guardian of mentally ill person.

56. (1) Where the mentally ill person is incapable of taking care of himself, the District Court or, where a direction has been issued under sub-section (2) of section 57, the Collector of the District, may appoint any suitable person to be his guardian.

* * * * *

(2) In the discharge of his functions under sub-section (1), the Collector shall be subject to the supervision and control of the State Government or of any authority appointed by it in that behalf.

Appointment of manager for management of property of mentally ill persons.

57. (1) Where the property of the mentally ill person who is incapable of managing it is such as can be taken charge of by a Court of Wards under any law for the time being in force, the District Court shall authorise the Court of Wards to take charge of such property, and thereupon, notwithstanding anything contained in such law, the Court of Wards shall assume the management of such property in accordance with that law.

(2) Where the property of the mentally ill person consists in whole or in part of land or of any interest in land which cannot be taken charge of by the Court of Wards, the District Court may, after obtaining the consent of the Collector of the District in which the land is situate, direct the Collector to take charge of the person and such part of the property or interest therein of the mentally ill person as cannot be taken charge of by the Court of Wards.

(3) Where the management of the property of the mentally ill person cannot be entrusted to the Court of Wards or to the Collector under sub-section (1) or sub-section (2), as the case may be, the District Court shall appoint any suitable person to be the manager of such property.

Appointment of manager by Collector.

58. Where the property of a mentally ill person has been entrusted to the Collector by the District Court under sub-section (2) of section 57, he may, subject to the control of the State Government or of any authority appointed by it in that behalf, appoint any suitable person for the management of the property of the mentally ill person.

Manager of property to execute bond.

59. Every person who is appointed as the manager of the property of a mentally ill person by the District Court or by the Collector shall, if so required by the appointing authority, enter into a bond for such sum, in such form and with such sureties as that authority may specify, to account for all receipts from the property of the mentally ill person.

Appointment and remuneration of managers and guardians.

60. (1) No person, who is the legal heir of a mentally ill person shall be appointed under section 56, 57 or 58 to be the guardian of such mentally ill person or, as the case may be, the manager of his property unless the District Court or, as the case may be, the Collector, for reasons to be recorded in writing considers that such appointment is for the benefit of the mentally ill person.

(2) The guardian of a mentally ill person or the manager of his property or both appointed under this Act, shall be paid, from out of the property of the mentally ill person, such allowance as the appointing authority may determine.

Duties of guardian and manager.

61. (1) Every person appointed as guardian of a mentally ill person or manager of his property, or of both, under this Act shall have the care of the mentally ill person or his property, or of both, and be responsible for the maintenance of the mentally ill person and of such members of his family as are dependent on him.

(2) Where the person appointed as guardian of a mentally ill person is different from the person appointed as the manager of his property, the manager of his property shall pay to the guardian of the mentally ill person such allowance as may be fixed by the authority appointing the guardian for the maintenance of the mentally ill person and of such members of his family as are dependent on him.

Powers of manager.

62. (1) Every manager appointed under this Act shall, subject to the provisions of this Act, exercise the same powers in regard to the management of the property of the mentally ill person in respect of which he is

appointed as manager, as the mentally ill person would have exercised as owner of the property had he not been mentally ill, and shall realise all claims due to the estate of the mentally ill person and pay all debts and discharge all liabilities legally due from that estate:

Provided that the manager shall not mortgage, create any charge on, or, transfer by sale, gift, exchange or otherwise, any immovable property of the mentally ill person or lease out any such property for a period exceeding five years, unless he obtains the permission of the District Court in that behalf.

(2) The District Court may, on an application made by the manager, grant him permission to mortgage, create a charge on, or, transfer by sale, gift, exchange or otherwise, any immovable property of the mentally ill person or to lease out any such property for a period exceeding five years, subject to such conditions or restrictions as that Court may think fit to impose.

(3) The District Court shall cause notice of every application for permission to be served on any relative or friend of the mentally ill person and after considering objections, if any, received from the relative or friend and after making such inquiries as it may deem necessary, grant or refuse permission having regard to the interests of the mentally ill person.

Manager to furnish inventory and annual accounts.

63. (1) Every manager appointed under this Act shall, within a period of six months from the date of his appointment, deliver to the authority, which appointed him, an inventory of the immovable property belonging to the mentally ill person and of all assets and other movable property received on behalf of the mentally ill person, together with a statement of all claims due to, and all debts and liabilities due by, such mentally ill person.

(2) Every such manager shall also furnish to the said appointing authority within a period of three months of the close of every financial year, an account of the property and assets in his charge, the sums received and disbursed on account of the mentally ill person and the balance remaining with him.

Manager's power to execute conveyances under orders of District Court.

64. Every manager appointed under this Act may, in the name and on behalf of the mentally ill person,—

(a) execute all such conveyances and instruments of transfers by way of sale, mortgage or otherwise of property of the mentally ill person as may be permitted by the District Court; and

(b) subject to the orders of the District Court, exercise all powers vested in that behalf in the mentally ill person, in his individual capacity or in his capacity as a trustee or as a guardian.

Manager to perform contracts directed by District Court.

65. Where the mentally ill person had, before his mental illness, contracted to sell or otherwise dispose of his property or any portion thereof, and if such contract is, in the opinion of the District Court, of such a nature as ought to be performed, the District Court may direct the manager appointed under this Act to perform such contract and to do such other acts in fulfilment of the contract as the Court considers necessary and thereupon the manager shall be bound to act accordingly.

Disposal of business premises.

66. Where a mentally ill person had been engaged in business before he became mentally ill, the District Court may, if it appears to be for

the benefit of the mentally ill person to dispose of his business premises, direct the manager appointed under this Act in relation to the property of such person to sell and dispose of such premises and to apply the sale proceeds thereof in such manner as the District Court may direct and thereupon the manager shall be bound to act accordingly.

Manager may dispose of leases.

67. Where a mentally ill person is entitled to a lease or underlease, and it appears to the manager appointed under this Act in relation to the property of such person that it would be for the benefit of the mentally ill person to dispose of such lease or underlease, such manager may, after obtaining the orders of the District Court, surrender, assign or otherwise dispose of such lease or underlease to such person for such consideration and upon such terms and conditions as the Court may direct.

Power to make order concerning any matter connected with mentally ill person.

68. The District Court may, on an application made to it by any person concerning any matter whatsoever connected with the mentally ill person or his property make such order, subject to the provisions of this Chapter, in relation to that matter as in the circumstances it thinks fit.

Proceeding if accuracy of inventory or accounts is impugned.

69. If any relative of the mentally ill person or the Collector impugns, by a petition to the District Court, the accuracy of the inventory or statement referred to in sub-section (*1*), or, as the case may be, any annual account referred to in sub-section (*2*), of section 63, the Court may summon the manager and summarily inquire into the matter and make such order thereon as it thinks fit:

Provided that the District Court may, in its discretion, refer such petition to any Court subordinate to it, or to the Collector in any case where the manager was appointed by the Collector and the petition is not presented by the Collector.

Payment into public treasury and investment of proceeds of estate.

70. All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the mentally ill person or for the management of his property, shall be paid into the public treasury on account of the estate, and shall be invested from time to time in any of the securities specified in section 20 of the Indian Trusts Act, 1882, unless the authority which appointed him, for reasons to be recorded in writing, directs that, in the interests of the mentally ill person such sums be otherwise invested or applied.

2 of 1882.

Relative may sue for accounts.

71. Any relative of a mentally ill person may, with the leave of the District Court, sue for an account from any manager appointed under this Act, or from any such person after his removal from office or trust, or from his legal representative in the case of his death, in respect of any property then or formerly under his management or of any sums of money or other property received by him on account of such property.

Removal of managers and guardians.

72. (*1*) The manager of the property of a mentally ill person may, for sufficient cause and for reasons to be recorded in writing, be removed by the authority which appointed him and such authority may appoint a new manager in his place.

(2) Any manager removed under sub-section (1) shall be bound to deliver the charge of all property of the mentally ill person to the new manager, and to account for all moneys received or disbursed by him.

(3) The District Court may, for sufficient cause, remove any guardian of a mentally ill person and appoint in his place a new guardian.

Dissolution and disposal of property of partnership on a member becoming mentally ill.

73. (1) Where a person, being a member of a partnership firm, is found to be mentally ill, the District Court may, on the application of any other partner for the dissolution of partnership or on the application of any person who appears to that Court to be entitled to seek such dissolution, dissolve the partnership.

(2) Upon the dissolution under sub-section (1), or otherwise, in due course of law, of a partnership firm to which that sub-section applies, the manager appointed under this Act may, in the name and on behalf of the mentally ill person, join with the other partners in disposing of the partnership property upon such terms, and shall do all such acts for carrying into effect the dissolution of the partnership, as the District Court may direct.

Power to apply property for maintenance of mentally ill person without appointing manager in certain cases.

74. (1) Notwithstanding anything contained in the foregoing provisions, the District Court may, instead of appointing a manager of the estate, order that in the case of cash, the cash and in the case of any other property the produce thereof, shall be realised and paid or delivered to such person as may be appointed by the District Court in this behalf, to be applied for the maintenance of the mentally ill person and of such members of his family as are dependent on him.

(2) A receipt given by the person appointed under sub-section (1) shall be valid discharge to any person who pays money or delivers any property of the mentally ill person to the person so appointed.

Power to order transfer of stock belonging to mentally ill person in certain cases.

75. Where any stock or Government securities or any share in a company (transferable within India or the dividends of which are payable therein) is or are standing in the name of, or vested in, a mentally ill person beneficially entitled thereto, or in the manager appointed under this Act or in a trustee for him, and the manager dies intestate, or himself becomes mentally ill, or is out of the jurisdiction of the District Court, or it is uncertain whether the manager is living or dead, or he neglects or refuses to transfer the stock, securities or shares, or to receive and pay over thereof the dividends to a new manager appointed in his place, within fourteen days after being required by the Court to do so, then the District Court may direct the Company or Government concerned to make such transfer, or to transfer the same, and to receive and pay over the dividends in such manner as it may direct.

Power to order transfer of stock of mentally ill persons residing out of India.

76. Where any stock or Government securities or share in a company is or are standing in the name of, or vested in, any person residing out of India, the District Court upon being satisfied that such person has been declared to be mentally ill and that his personal estate has been vested in a person appointed for the management thereof, according to the law of the place where he is residing, may direct the Company or Government concerned to make such transfer of the stock, securities or

shares or of any part thereof, to or into the name of the person so appointed or otherwise, and also to receive and pay over the dividends and proceeds, as the District Court thinks fit.

Power to apply property for mentally ill person's maintenance in case of temporary mental illness.

77. If it appears to the District Court that the mental illness of a mentally ill person is in its nature temporary, and that it is expedient to make provision for a temporary period, for his maintenance or for the maintenance of such members of his family as are dependent on him, the District Court may, in like manner as under section 74, direct his property or a sufficient part thereof to be applied for the purpose specified therein.

Action taken in respect of mentally ill person to be set aside if District Court finds that his mental illness has ceased.

78. (*1*) Where the District Court has reason to believe that any person who was found to be mentally ill after inquisition under this Chapter has ceased to be mentally ill, it may direct any court subordinate to it to inquire whether such person has ceased to be mentally ill.

(*2*) An inquiry under sub-section (*1*) shall, so far as may be, be conducted in the same manner as an inquisition conducted under this Chapter.

(*3*) If after an inquiry under this section, it is found that the mental illness of a person has ceased, the District Court shall order all actions taken in respect of the mentally ill person under this Act to be set aside on such terms and conditions as that Court thinks fit to impose.

Appeals.

79. An appeal shall lie to the High Court from every order made by a District Court under this Chapter.

Power of District Court to make regulations.

80. The District Court may, from time to time, make regulations for the purpose of carrying into effect the provisions of this Chapter.

CHAPTER VII

Liability to meet cost of maintenance of mentally ill persons detained in psychiatric Hospital or psychiatric nursing home

Cost of maintenance to be borne by Government in certain cases.

81. The cost of maintenance of a mentally ill person detained as an inpatient in any psychiatric hospital or psychiatric nursing home shall, unless otherwise provided for by any law for the time being in force, be borne by the Government of the State wherein the authority which passed the order in relation to the mentally ill person is subordinate, if—

(*a*) that authority which made the order has not taken an undertaking from any person to bear the cost of maintenance of such mentally ill person, and

(*b*) no provision for bearing the cost of maintenance of such person has been made in the said order.

* * * * *

Application to District Court for payment of cost of maintenance out of estate of mentally ill person or from a person legally bound to maintain him.

82. (*1*) Where any mentally ill person detained in a psychiatric hospital or psychiatric nursing home has an estate or where any person legally bound to maintain such person has the means to maintain such person, the Government liable to pay the cost of maintenance of such person under section 81 or any local authority liable to bear the cost of maintenance of such mentally ill person under any law for the time being in force, may make an application to the District Court within whose jurisdiction the estate of the mentally ill person is situate or the person legally bound to maintain the mentally ill person and having the means therefor resides, for an order authorising it to apply the estate of the mentally ill person to the cost of maintenance or, as the case may be, directing the person legally bound to maintain the mentally ill person and having the means therefor to bear the cost of maintenance of such mentally ill person.

(*2*) An order made by the District Court under sub-section (*1*) shall be enforced in the same manner, shall have the same force and effect and be subject to appeal, as a decree made by such Court in a suit in respect of the property or person mentioned therein.

* * * * *

Persons legally bound to maintain mentally ill person not absolved from such liability.

83. Nothing contained in the foregoing provisions shall be deemed to absolve a person legally bound to maintain a mentally ill person from maintaining such mentally ill person.

CHAPTER VIII

PROTECTION OF HUMAN RIGHTS OF MENTALLY ILL PERSONS

Mentally ill persons to be treated without violation of human rights.

84. (*1*) No mentally ill person shall be subjected during treatment to any indignity (whether physical or mental) or cruelty.

(*2*) A mentally ill person under treatment shall not be subjected to mechanical restraint, solitary confinement or other harsh measures, unless the medical practitioner concerned is satisfied that there are compelling circumstances which justify resort to any such measure:

Provided that whenever the medical practitioner considers it necessary to have resort to any such measure he shall record his reasons therefor in writing.

(*3*) No mentally ill person under treatment shall be used for purposes of research, unless—

(*i*) such research is of direct benefit to him for purposes of diagnosis or treatment; or

(*ii*) such person, being a voluntary patient, has given his consent in writing or where such person (whether or not a voluntary patient) is incompetent, by reason of minority or otherwise, to give valid consent, the guardian or other person competent to give consent on his behalf, has given his consent in writing, for such research.

(4) Subject to any rules made in this behalf under section 97 for the purpose of preventing vexatious or defamatory communications or communications prejudicial to the treatment of mentally ill persons, no letters or other communications sent by or to a mentally ill person under treatment shall be intercepted, detained or destroyed.

CHAPTER IX

PENALTIES AND PROCEDURE

Penalty for establishment or maintenance of psychiatric hospital or psychiatric nursing home in contravention of Chapter III.

85. (1) Any person who establishes or maintains a psychiatric hospital or psychiatric nursing home in contravention of the provisions of Chapter III shall, on conviction, be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both, and in the case of a second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever, after conviction under sub-section (1), continues to maintain a psychiatric hospital or psychiatric nursing home in contravention of the provisions of Chapter III shall, on conviction, be punishable with fine which may extend to one hundred rupees for every day after the first day during which the contravention is continued.

Penalty for improper reception of mentally ill person.

86. Any person who receives or detains or keeps a mentally ill person in a psychiatric hospital or psychiatric nursing home otherwise than in accordance with the provisions of this Act, shall, on conviction, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Penalty for contravention of sections 63 and 72.

87. Any manager appointed under this Act to manage the property of a mentally ill person, who contravenes the provisions of section 63 or sub-section (2) of section 72, shall, on conviction, be punishable with fine which may extend to five hundred rupees and may be detained in a civil prison till he complies with the said provisions.

General provision for punishment of other offences.

88. Any person who contravenes any of the provisions of this Act or of any rule or regulation made thereunder, for the contravention of which no penalty is expressly provided, in this Act, shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Offences by companies.

89. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Sanction for prosecutions.

90. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court shall take cognizance of any offence punishable under section 85, except with the previous sanction of the licensing authority. 2 of 1974.

CHAPTER X

MISCELLANEOUS

Provision as to bonds.

91. The provisions of Chapter XXXIII of the Code of Criminal Procedure, 1973, shall, as far as may be, apply to bonds taken under this Act. 2 of 1974.

Half yearly report by medical officer.

92. The medical officer in charge of a psychiatric hospital or psychiatric nursing home wherein any mentally ill person is detained under the provisions of this Act, shall, once in every six months, make a special report regarding the mental and physical condition of every such person to the authority under whose orders the person is so detained.

Pension, etc., of mentally ill person payable by Government.

93. (1) Where any sum is payable in respect of pay, pension, gratuity or any allowance to any person by any Government and the person to whom the sum is payable is certified by a Magistrate under this Act to be a mentally ill person, the officer under whose authority such sum would be payable, may pay to the person having charge of the mentally ill person so much of the said sum, as he thinks fit, having regard to the cost of maintenance of such person and may pay to such members of the family of the mentally ill person as are dependent on him for maintenance, the surplus, if any, or such part thereof, as he thinks fit, having regard to the cost of maintenance of such members.

(2) Where there is any further surplus amount available out of the funds specified in sub-section (1) after making payments as provided in that sub-section, the Government shall hold the same to be dealt with as follows, namely:—

(a) where the mentally ill person is certified to have ceased to be mentally ill by the District Court within the local limits of whose jurisdiction such person resides or is kept or detained, the whole of the surplus amount shall be paid back to that person;

(b) where the mentally ill person dies before payment, the whole of the surplus amount shall be paid over to those of his heirs who are legally entitled to receive the same;

(c) where the mentally ill person dies during his mental illness without leaving any person legally entitled to succeed to his estate, the whole of the surplus amount shall, with the prior permission of the District Court, be utilised for such charitable purpose as may be approved by the District Court.

(3) The Central Government or the State Government, as the case may be, shall be discharged of all liability in respect of any amounts paid in accordance with this section.

Legal aid to mentally ill person at State expense in certain cases.

94. (1) Where, in any proceeding before a Magistrate, the mentally ill person is not represented by a legal practitioner and where it appears to the Magistrate that the person has not sufficient means to engage a legal practitioner, the Magistrate shall assign a legal practitioner to represent him at the expense of the State.

(2) The High Court may, with the previous approval of the State Government, make rules providing for—

(a) the mode of selecting legal practitioners for the purpose of sub-section (1);

(b) the facilities to be allowed to such legal practitioners;

(c) the fees payable to such legal practitioners by the Government and generally for carrying out the purpose of sub-section (1).

(3) For the removal of doubts it is hereby declared that the provisions of this section shall not apply to any proceeding for inquisition under Chapter VI of this Act.

Explanation.—**In this section "legal practitioner" shall have the meaning assigned to it in clause (i) of section 2 of the Advocates Act, 1961.**

25 of 1961.

Protection of action taken in good faith.

95. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules, regulations or orders made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of this Act or any rules, regulations or orders made thereunder.

Construction of references to certain laws, etc.

96. (1) Any reference in this Act to a law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

(2) Any reference in this Act to any officer or authority shall, in relation to any area in which there is no officer or authority with the same designation, be construed as a reference to such officer or authority as may be specified by the Central Government by notification in the Official Gazette.

Power to State Government to make rules.

97. (1) The State Government, with the previous approval of the Central Government, may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act:

Provided that the first rules shall be made by the Central Government by notification in the Official Gazette.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the qualifications of persons who may be appointed as Mental Health Authorities and the terms and conditions subject to which they may be appointed under sections 3 and 4 and all other matters relating to such authorities;

(*b*) the class or category of persons for whom separate psychiatric hospitals and psychiatric nursing homes may be established and maintained under clause (*d*) of sub-section (*1*) of section 5;

(c) the form in which,—

(*i*) an application may be made for grant or renewal of a licence and the fee payable in respect thereof under section 7 or, as the case may be, section 9;

(*ii*) a licence may be granted for the establishment or maintenance of a psychiatric hospital or a psychiatric nursing home under section 8;

(*iii*) an application may be made under section 15 or section 16;

(*iv*) an application may be made for a temporary treatment order under section 20 or section 21;

(*v*) an application may be made for a reception order under section 22;

* * * * *

(*vi*) an application may be made for the admission of a mentally ill person in an emergency under sub-section (*1*) of section 28;

(*vii*) a certificate may be given by a medical practitioner for the admission of a mentally ill person in an emergency under sub-section (*2*) of section 28;

(*d*) the manner in which a report may be made to the licensing authority under sub-section (*2*) of section 9;

(*e*) the manner in which application for a reception order shall be signed and verified under sub-section (*6*) of section 22;

(*f*) the minimum facilities referred to in the proviso to sub-section (*5*) of section 9, including,—

(*i*) psychiatrist—patient ratio;

(*ii*) other medical or para-medical staff;

(*iii*) space requirement;

(*iv*) treatment facilities; and

(*v*) equipment;

(*g*) the manner in which an order refusing to grant, or revoking, a licence shall be communicated under section 8 or, as the case may be, section 11;

(*h*) the manner in which and the conditions subject to which * * * a psychiatric hospital or psychiatric nursing home shall be maintained under section 10;

(*i*) the manner in which * * * records shall be maintained under sub-section (*l*) of section 13;

(*j*) the form and manner in which and the period within which an appeal against any order refusing to grant or renew a licence or revoking a licence shall be preferred and the fee payable in respect thereof under section 12;

(*k*) the facilities to be provided under section 14 for the treatment of a mentally ill person as an outpatient;

(*l*) the qualifications of persons who may be appointed as Visitors and the terms and conditions on which they may be appointed, under section 40 and their functions;

(*m*) prevention of vexatious or defamatory communications and other matters referred to in sub-section (4) of section 84;

(*n*) any other matter which is required to be, or may be, prescribed.

* * * * *

Rules made by Central Government to be laid before Parliament.

98. Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Effect of Act on other laws.

99. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force and to the extent of such inconsistency that other law shall be deemed to have no effect.

Power to remove difficulty.

100. If any difficulty arises in giving effect to the provisions of this Act in any State, the State Government may, by order do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no order shall be made under this section in relation to any State after the expiry of two years from the date on which this Act comes into force in that State.

Repeal and saving.

101. (*1*) The Indian Lunacy Act, 1912 and the Lunacy Act, 1977, are hereby repealed. 4 of 1912. Jammu and Kashmir Act 25 of 1977 (1920 AD).

(*2*) Notwithstanding such repeal, anything done or any action taken under either of the said Acts shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force until superseded by anything done or any action taken under this Act.

APPENDIX I

(*Vide* Para 2 of the Report)

Motion in Lok Sabha for reference of the Bill to the Joint Committee

"That the Bill to consolidate and amend the law relating to the treatment and care of mentally ill persons, to make better provision with respect to their property and affairs and for matters connected therewith or incidental thereto, be referred to a Joint Committee of the Houses consisting of 45 members, 30 from this House, namely:—

1. Shri Subhash Chandra Bose Alluri
2. Dr. Baldev Prakash
3. Shri K. B. Choudhari
4. Shri Anant Dave
5. Shri Raj Krishna Dawn
6. Ch. Hari Ram Makkasar Godara
7. Shri Harikesh Bahadur
8. Shri S. Jaganathan
9. Shri Kacharulal Hemraj Jain
10. Shri Hukam Chand Kachwai
11. Shri Ramachandran Kadannappalli
12. Dr. Bapu Kaldate
13. Shri Rajshekhar Kolur
14. Dr. Sarojini Mahishi
15. Shri Mallikarjun
16. Dr. Bijoy Mondal
17. Shri S. G. Murugaiyan
18. Dr. Sushila Nayar
19. Shri T. A. Pai
20. Shri K. Ramamurthy
21. Shri Rudolph Rodrigues
22. Dr. Saradish Roy
23. Shri Sakti Kumar Sarkar
24. Shri Shrikrishna Singh
25. Shri H. L. P. Sinha
26. Shri Suraj Bhan
27. Shri N. Tombi Singh
28. Shri Jagdambi Prasad Yadav
29. Shri Yuvraj
30. Shri Raj Narain.

and 15 from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

of the next session;

that the Committee shall make a report to this House by the first day

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

APPENDIX II

(*Vide* Para 3 of the Report)

Motion adopted in Rajya Sabha

"That this House concurs in the recommendation of the Lok Sabha and the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to consolidate and amend the law relating to the treatment and care of mentally ill persons to make better provision with respect to their property and affairs and for matters connected therewith or incidental thereto and resolve that the following fifteen members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Shri R. D. Jagtap Avergoankar
2. Shri G. C. Bhattacharya
3. Shri Swami Dinesh Chandra
4. Shri Krishna Nand Joshi
5. Shri Robin Kakati
6. Shri Ibrahim Kalaniya
7. Shri Maqsood Ali Khan
8. Shri B. V. Abdulla Koya
9. Shri Khoyomo Lotha
10. Shri Harekrushna Mallick
11. Shri Kalraj Mishra
12. Shrimati Purabi Mukhopadhyay
13. Shrimati Noorjehan Razack
14. Shrimati Ushi Khan
15. Shri Bhagwati Charan Varma."

APPENDIX III

(*Vide* para 10 of the Report)

List of Associations, Organisations, Psychiatrists etc., from whom memoranda were received by the Joint Committee.

1. Dr. D. Mohan, Associate Professor and Head of the Department of Psychiatry, All India Institute of Medical Sciences, New Delhi.
2. Dr. Roshan S. Master, Hon. Professor of Psychiatry, B. T. Medical College and Sassoon General Hospitals, Poona.
3. Federation for the Mentally Retarded (India), New Delhi.
4. Superintendent, Mental Hospital, Ahmedabad.
5. Dr. N. S. Vahia, M. D. Hon. Psychiatrist, Dr. Balabhai Nanavati Hospital, Bombay.
6. Dr. Deva Prasad Sen Muzumdar, Associate Professor and Head of the Department of Psychology, Central Institute of Psychiatry, Kanke, Ranchi.
7. Dr. M. A. Radhakrishnan, Superintendent, Incharge, Govt. Mental Hospital, Madras.
8. Dr. A. K. Shaibat Yadav, General Secretary, Indian Association of Clinical Psychologists, Jail Road, Lucknow.
9. Dr. S. Dube, Asstt. Professor of Clinical Psychology, All India Institute of Medical Sciences, New Delhi (President of Delhi Association of Clinical Psychologists).
10. Dr. Robert B. Davis, Psychiatrist, Boreya Road, Kanke, Ranchi (Bihar).
11. Dr. V. G. Dhodapar, Psychiatrist, Mental Hospital, Indore, (M.P:):
12. Dr. D. S. Rao, Dy. Director of Health Services I/C Mental Hospital, Panaji.
13. Dr. Narendra N. Wig, M.D. Professor and Head of the Department of Psychiatry, Post Graduate Institute of Medical Education and Research, Chandigarh.
14. Dr. G. G. Prabhu, Asstt Professor, Department of Psychiatry, All India Institute of Medical Sciences, New Delhi.
15. Dr. K. C. Dube, Consulting Neuropsychiatrist, Professor of Psychiatry and Senior Medical Superintendent, (Retd.) I/C Research Unit Mental Hospital, Agra.
16. Medical Superintendent, and Senior Psychiatrist, Hospital for Mental Diseases, Shahdara, Delhi.
17. Dr. B. M. Deb Sikdar, Director, Hon. Lecturer, Miraj Medical College, Miraj.

18. Dr. B. P. Bora, Superintendent, Mental Hospital, Tezpur, Assam.

19. Superintendent, Central Mental Hospital, Yervada, Poona.

20. Dr. V. N. Bagadia, Head & Hony. Professor, Deptt. of Psychiatry, Seth G. S. Medical College and King Edward VII Memorial Hospital, Parel, Bombay.

21. COLONEL (Dr.) Kirpal Singh, National Professor of Psychiatry, Consultant Psychiatrist, T-38, Rajouri Garden, New Delhi.

22. Dr. E. Hoch, Medical Superintendent, Government Hospital for Psychiatric Diseases, Srinagar (J & K).

23. Dr. Suresh R. Kamra, Hony. Secretary, Bombay Psychiatric Society, 11, Anik Court, Shivaji Park, Road No. 5, Bombay.

24. Dr. A. B. Dutt, Superintendent, Bangiya Unmad Asram, Dutta Nagar, Calcutta.

25. Dr. M. Sivathanu Pillai, Superintendent, Mental Hospital, Trichur.

26. Dr. B Pyne, Chief Medical Officer, Mental Hospital, 133, Vivekananda Road, Calcutta.

27. Dr. Vihang N. Vahia, Chief Deptt. of Psychological Medicine, North South Road No. 1, Vile (Parle) West, Bombay.

28. Dr. M. N. Pal, Deptt. of Health & Family Welfare, Government of West Bengal, Calcutta.

29. Dr. Shanti Sheth, Consultant Psychiatrist, Laud Mansion, 21, Queens Road, Bombay.

30. Dr. L. P. Varma, Veterinary College, Ranchi.

31. Dr. C. K. Parikh, Medical Legal Consultant, 6, Owners Court, Bombay.

32. Dr. S. S. Syalee, Consultant Psychiatrist and Neurophysician, New Delhi.

33. Dr. Shridhar Sharma, Goa Medical College, Panaji, Goa.

34. Dr. S. S. Jayaram, Bangalore Nursing Home, Bangalore.

35. Secretary, Department of Health, Government of Assam, Gauhati.

36. Dr. B. B. Sethi, Professor and Head of the Department of Psychiatry, King George's Medical College, Lucknow.

37. Shri R. K. Upadhyay, Central Institute of Psychiatry, Kanke, Ranchi.

38. Shri R. M. Varma, Director, National Institute of Mental Health and Neuro Sciences, Bangalore

39. Dr. R. L. Kapur, Prof. & Head of the Department of Psychiatry, Bangalore.

40. Shri C. K. Vasudeva Rao, President, Karnatka Association of Clinical Psychologists, Bangalore

41. President, Medico Pastoral Association, Pottery Road, Bangalore.

42. Dr. S. Dutta Ray, Honorary Psychiatrist, New Delhi.

43. Shri D. Dutta, President, Gauhati Mental Welfare Society, Gauhati.

44. Goverment of Maharashtra, Bombay.

45. Dr. G. C. Suvarna, Superintendent, Mental Hospital, Dharwad.

APPENDIX IV

(*Vide* para 11 of the Report)

List of representatives of varoius Associations, Organisations, Psychiatrists, etc. who gave evidence before the Joint Committee

Sl. No.	Name of Association, Organisation Psychiatrist etc.	Date on which evidence taken
1	2	3
1.	Federation for the Welfare of the Mentally Retarded (India), New Delhi	3-11-1978
	Spokesmen :	
	(*i*) Shri G. B. Pai—Vice President	
	(*ii*) Shri K. N. Bhat—Advocate	
2.	Dr. Deva Prasad Sen Mazumdar, Associate Professor and Head of the Department of Psychology, Ex-President, Indian Association of Clinical Psychologists, Central Institute of Psychiatry, Kanke Ranchi	3-11-1978
3.	Delhi Association of Clinical Psychologists	3-11-1978
	Spokesman :	
	Dr. S. Dube, Assistant Professor of Clinical Psychology, All India Institute of Medical Sciences, New Delhi	3-11-1978
4.	Indian Association of Clinical Psychologists, Lucknow	3-11-1978
	Spokesmen :	
	(*i*) Dr. S. B. Singh, President.	
	(*ii*) Shri R. Kishore, Vice President	
	(*iii*) Shri Ram Akshaibat Yadav, General Secretary.	
	(*iv*) Shri M. V. Singh, Special Member	
5.	Dr. Narendra N. Wig, Professor and Head of Department of Psychology, Post Graduate Institute of Medical Education and Research, Chandigarh	4-11-1978
6.	Dr. B. M. Debsikdar, Director, Kripmayee Nursing Home and Honorary Lecturer, Miraj Medical College, Miraj	4-11-1978
7.	Dr. Shanti Sheth, Consultant Psychiatrist, Bombay	4-11-1978
8.	Dr. C. K. Parikh, Medico Legal Consultant, Corresponding Member (Forensic Pathology) American Academy of Forensic Sciences, Bombay .	5-11-1978

9. Dr. K. C. Dube, Consulting Neuro-Psychiatrist, Sr. Medical Superintendent (Retd.), I/C Research Unit Mental Hospital, Agra 5-11-1978

10. Dr. S. S. Jayaram, Consultant Psychiatrist, Bangalore Nursing Home, Bangalore . 5-11-1978

11. Dr. L. P. Varma, Ranchi . . . 5-11-1978

12. Colonel (Dr. Kirpal Singh, National Professor Psychiatry, Consultant Psychiatrist, New Delhi . 6-11-1978

13. Dr. G. G. Prabhu, Assistant Professor of Clinical Psychology, Department of Psychiatry, All India Institute of Medical Sciences, New Delhi . 6-11-1978

14. Dr. S. Dutta Ray, Honorary Psychiatrist Holy Family Hospital, Tirath Ram Shah Hospital, and St. Stephens Hospital, New Delhi . . . 6-11-1978

15. Dr. R. L. Kapur, Professor and Head of Department of Psychiatry, National Institute of Mental Health and Neuro-Sciences, Bangalore . . 6-11-1978

16. Dr. (Brig.) S. S. Syalee, Consulting Psychiatrist, and Neuro-Physician, New Delhi . . . 7-11-1978

17. Dr. A. B. Dutt, Superintendent, Bangiya Unmad Asram, Calcutta 8-12-1978

APPENDIX V

MINUTES OF THE SITTINGS OF THE JOINT COMMITTEE ON THE MENTAL HEALTH BILL, 1978

I

First Sitting

The Committee sat on Wednesday, the 7th June 1978 from 15.00 to 16.10 hours.

PRESENT

Dr. Sushila Nayar—*Chairman*

MEMBERS

Lok Sabha

2. Dr. Baldev Prakash
3. Shri Raj Krishna Dawn
4. Shri Harikesh Bahadur
5. Shri S. Jaganathan
6. Shri Kacharulal Hemraj Jain
7. Shri Hukam Chand Kachwai
8. Shri Ramachandran Kadannappalli
9. Dr. Bapu Kaldate
10. Shri Rajshekhar Kolur
11. Dr. Sarojini Mahishi
12. Shri Mallikarjun
13 Dr. Bijoy Mondal
14. Shri S. G. Murugaiyan
15. Shri T. A. Pai
17. Shri Rudolph Rodrigues
16. Shri K. Ramamurthy
18. Dr. Saradish Roy
19. Shri Srikrishna Singh
20. Shri H. L. P. Sinha
21. Shri Suraj Bhan
22. Shri N. Tombi Singh
23. Shri Jagdambi Prasad Yadav
24. Shri Yuvraj
25. Shri Raj Narain

Rajya Sabha

26. Shri R. D. Jagtap Avergoankar
27. Shri Swami Dinesh Chandra
28. Shri Krishna Nand Joshi
29. Shri Ibrahim Kalaniya
30. Shri Maqsood Ali Khan
31. Shri B. V. Abdullah Koya
32. Shri Khyomo Lotha
33. Shri Harekrushna Mallick
34. Shri Kalraj Mishra
35. Shrimati Noorjehan Razack
36. Shrimati Ushi Khan
37. Shri Bhagwati Charan Varma

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

LEGISLATIVE COUNSEL

1. Shri N. L. Vaidyanathan—*Joint Secretary and Legislative Counsel.*
2. Shri Y. P. Sud—*Assistant Legislative Counsel*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

1. Shri K. P. Singh, *Additional Secretary, Ministry of Health and Family Welfare (Department of Health).*
2. Dr. B. Shankaran, *Director-General of Health Services, Government of India, New Delhi.*
3. Shri R. K. Singhal, *Joint Secretary, Ministry of Health and Family Welfare (Department of Health).*
4. Dr. I. D. Bajaj, *Additional Director-General of Health Services, Government of India, New Delhi.*
5. Shri Anand Prakash Atri, *Deputy Secretary, Ministry of Health and Family Welfare (Department of Health)*, New Delhi.
6. Dr. J. S. Neki, *Director, Post Graduate Institute of Medical Education and Research, Chandigarh.*

2. At the outset, the Chairman welcomed the Members of the Committee and referred to the importance and urgency of the proposed legislative measure and the task before the Committee.

3. The Minister of Health and Family Welfare also explained to the Committee the background, implications and the urgency of the proposed legislation.

4. The Committee then considered their future programme of work.

5. The Committee decided to invite memoranda on the Bill from the State Governments/Union Territory Administrations, Medical Superintendents of the Mental Hospitals in the country, other private institutions, Psychiatrists, Organisations and individuals interested in the subject matter of the Bill by the 25th June, 1978 for their consideration

The Committee decided to issue a Press Communique in this behalf and also address letters to all the State Governments/Union Territory Administrations and other institutions etc., inviting their views and suggestions on the provisions of the Bill.

The Committee further decided to take oral evidence on the provisions of the Bill.

The Committee authorised the Chairman to select parties for oral evidence.

6. The Committee further decided to divide themselves into three groups with a view to undertake on-the-spot study visits to certain selected Mental Hospitals in Southern, Eastern and Western regions of the country subject to the approval of the Hon'ble Speaker. The Committee authorised the Chairman to select the Mental Hospitals and Jails to be visited by these groups and also to finalise the composition of the groups and dates of their visits.

7. The Chairman observed that in view of the work involved, and the short period at their disposal, it may not be possible for the Committee to present their report by the first day of the forthcoming Session of Parliament *i.e.*, the 17th June, 1978 and the Committee may have to ask for an extension of time for presentation of their report. The Minister of Health and Family Welfare and the Members of the Committee agreed with the view expressed by the Chairman. The Chairman, however, also observed that it should our endeavour to ensure that the Bill is enacted before the end of the current year.

8. The Committee desired that the Ministry of Health and Family Welfare might tabulate the memoranda that might be received by the Committee and give their comments on the various points raised therein for their consideration.

9. The Committee also desired that the Ministry of Health and Family Welfare should supply copies of the publication on the subject brought out by the World Health Organisation *viz.* 'The Law and Mental Health Harmonizing objectives' by W. J. Curan and T. W. Harding alongwith its summary for their information and use.

10. The Committee then decided to hold their next sitting on Wednesday, the 28th June, 1978 at 11.00 hours. The Committee may, if necessary, also sit in the afternoon.

11. The Committee then adjourned.

II

Second Sitting

The Committee sat on Wednesday, the 28th June, 1978, from 11.00 to 12.00 hours.

PRESENT

Dr. Sushila Nayar—*Chairman*

MEMBERS

Lok Sabha

2. Dr. Baldev Prakash
3. Shri Anant Dave
4. Shri Harikesh Bahadur

5. Shri S. Jaganathan
6. Shri Kacharulal Hemraj Jain
7. Shri Hukam Chand Kachwai
8. Shri Ramachandran Kadannappalli
9. Dr. Bapu Kaldate
10. Shri Raj Shekhar Kolur
11. Dr. Sarojini Mahishi
12. Shri S. G. Murugaiyan
13. Shri T. A. Pai
14. Shri K. Ramamurthy
15. Shri Rudolph Rodrigues
16. Dr. Saradish Roy
17. Shri Shrikrishna Singh
18. Shri H. L. P. Sinha
19. Shri Suraj Bhan
20. Shri N. Tombi Singh
21. Shri Jagdambi Prasad Yadav
22. Shri Raj Narain

Rajya Sabha

23. Shri R. D. Jagtap Avergoankar
24. Shri Swami Dinesh Chandra
25. Shri Krishna Nand Joshi
26. Shri Robin Kakoti
27. Shri Ibrahim Kalaniya
28. Shri Maqsood Ali Khan
29. Shri B. V. Abdulla Koya
30 Shri Khyomo Lotha
31. Shri Harekrushna Mallick
32. Shrimati Purabi Mukhopadhyay
33. Shrimati Noorjehan Razack
34. Shrimati Ushi Khan
35. Shri Bhagwati Charan Varma

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

LEGISLATIVE COUNSEL

1. Shri N. L. Vaidyanathan—*Joint Secretary and Legislative Counsel.*

2. Shri Y. P. Sud—*Assistant Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

1. Shri K. P. Singh—*Additional Secretary, Ministry of Health and Family Welfare (Department of Health).*

2. Dr. I. D. Bajaj—*Additional Director-General of Health Services, Government of India, New Delhi.*

3. Shri Anand Prakash Atri—*Deputy Secretary, Ministry of Health and Family Welfare (Department of Health), New Delhi.*

4. Dr. J. S. Neki—*Director, Post Graduate Institute of Medical Education and Research, Chandigarh.*

2. At the outset, the Chairman informed the members that—

(i) in response to the Press Communique and the letters issued to State Governments/Union territory Administrations, Medical Superintendents of Mental Hospitals and the reputed Psychiatrists inviting Memoranda on the Bill, 18 memoranda had been received so far and circulated to the members;

(ii) some persons have requested for extension of time for submitting their memoranda. They have been asked to submit the memoranda by the 10th July, 1978;

(iii) 16 persons had requested for oral evidence. Out of these, 7 persons who had not submitted their memoranda have been asked to send their memoranda in the first instance. As already authorised by the Committee, she would select the persons for giving oral evidence before the Committee in consultation with Dr. J. S. Neki after the memoranda have been received; and

(iv) three W.H.O. publications *viz.*, (1) The Law & Mental Health Harmonizing Objectives, (2) Organisation of Mental Health Services in Developing Countries, and (3) Promoting Mental Health through the Law, received from the Ministry of Health and Family Welfare had been circulated to the Members.

3. The Committee felt that as they have still to hear oral evidence, to undertake on-the-spot study visits and to complete other stages of the Bill, it would not be possible for them to present the report by the stipulated date, *i.e.*, 17th July, 1978. The Committee have, therefore, decided to ask for an extension of time for presentation of the report by the last day of the 1st week of the next session.

The Committee authorised the Chairman and, in her absence, Shri T. A. Pai to move necessary motion in this behalf in Lok Sabha on the 17th July, 1978.

4. The Committee also decided that members desirous of giving notices of amendments on the Bill might do so by the 31st July, 1978.

5. The Committee then considered their future programme of work—as per Annexure—and approved it subject to—

(i) extension of time for presentation of report being granted by the House;

(ii) the study tours being permitted by the Speaker; and

(iii) any modification in the dates and places to be visited that the Chairman might consider necessary.

The Chairman requested members to intimate their preferences or regions to the Lok Sabha Secretariat. The Secretariat would also write to members in this regard.

6. The Committee authorised the Chairman to fix the date and time for the next sitting of the Committee.

7. The Committee then adjourned.

III

Third Sitting

The Committee sat on Monday, the 7th August, 1978 from 15.00 to 15.30 hours.

PRESENT

Dr. Sushila Nayar—*Chairman*

MEMBERS

Lok Sabha

2. Dr. Baldev Prakash
3. Shri Anant Dave
4. Ch. Hari Ram Makkasar Godara
5. Shri Harikesh Bahadur
6. Shri Kacharulal Hemraj Jain
7. Shri Rajshekhar Kolur
8. Shri S. G. Murugaiyan
9. Shri K. Ramamurthy
10. Dr. Saradish Roy
11. Shri Shrikrishna Singh
12. Shri Suraj Bhan
13. Shri Jagdambi Prasad Yadav

Rajya Sabha

14. Shri G. C. Bhattacharya
15. Shri Swami Dinesh Chandra
16. Shri Krishna Nand Joshi
17. Shri Robin Kakati
18. Shri Ibrahim Kalaniya
19. Shri Maqsood Ali Khan
20. Shrimati Noorjehan Razack
21. Shri Bhagwati Charan Varma

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

LEGISLATIVE COUNSEL

1. Shri N. L. Vaidyanathan—*Joint Secretary and Legislative Counsel.*
2. Shrimati V. S. Rama Devi—*Joint Secretary and Legislative Counsel.*
3. Shri Y. P. Sud—*Assistant Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

1. Shri K. P. Singh—*Additional Secretary, Ministry of Health and Family Welfare (Department of Health).*
2. Dr. B. Sankaran—*Director-General of Health Services, Government of India, New Delhi.*
3. Shri R. K. Singhal—*Joint Secretary, Ministry of Health and Family Welfare (Department of Health).*
4. Dr. I. D. Bajaj—*Additional Director-General of Health Services, Government of India, New Delhi.*
5. Shri Anand Prakash Atri—*Deputy Secretary, Ministry of Health and Family Welfare (Department of Health), New Delhi.*

2. At the outset, the Chairman informed the Members that the Committee at its sittings held on the 7th and 28th June, 1978 had decided to undertake on-the-spit study visits of certain selected Mental Hospitals in the country in three Groups of 15 members each between the 4th and 12th September, 1978. Now she had received requests from some Members that the dates might be changed on account of the festivals of Chaturdashi falling on the 4th and Ramzan Id on the 6th September, 1978. The Committee decided that the dates be changed and the visits might take place between the 8th and 15th September, 1978 and the programme be drawn up accordingly and circulated to Members. The Committee authorised the Chairman to change the subsequent dates of the sittings fixed earlier for oral evidence and clause-by-clause consideration of the Bill etc. as considered necessary.

3. The Chairman then read out the names of members of 3 Study Groups visiting Northern, Eastern and Southern regions prepared by the Secretariat on the basis of preferences given by Members (*Annexure*). Those Members who had not indicated any preference, had been included in the lists where there were vacancies.

4. The Chairman, thereafter, informed the Committee that names of 23 persons had been received for giving oral evidence before the Committee. Out of these, 12 persons had not yet sent their memoranda. They would be asked to send their memoranda. As already authorised by the Committee, the Chairman would select the persons who should be invited to give evidence.

5. The Committee then adjourned.

ANNEXURE

As on 7-8-1978

PARLIAMENTARY JOINT COMMITTEE ON THE MENTAL HEALTH BILL, 1978.

COMPOSITION OF THE STUDY GROUP I-NORTHERN REGION

(ON-THE-SPOT VISITS TO MENTAL HOSPITALS ETC. AT SRINAGAR, JAMMU, LUCKNOW AND VARANASI)

Lok Sabha

1. Dr. Sushila Nayar—*Chairman*
2. Dr. Sarojini Mahishi—*Convenor*

3. Shri K. B. Choudhari
4. Shri S. Jaganathan
5. Dr. Bapu Kaldate
6. Shri Mallikarjun
7. Shri S. G. Murugaiyan
8. Shri Rudolph Rodrigues
9. Shri Sakti Kumar Sarkar
10. Shri N. Tombi Singh

Rajya Sabha

11. Shri R. D. Jagtap Avergoankar
12. Shri Ibrahim Kalaniya
13. Shri Maqsood Ali Khan
14. Shri Harakrushna Mallick
15. Shrimati Purabi Mukhopadhyay
16. Shrimati Noorjahan Razack.

As on 7-8-1978

PARLIAMENTARY JOINT COMMITTEE ON THE MENTAL HEALTH BILL, 1978

COMPOSITION OF THE STUDY GROUP-II-EASTERN REGION

(ON-THE-SPOT VISITS TO MENTAL HOSPITALS ETC. AT CALCUTTA, TEZPUR & RANCHI)

Lok Sabha

1. Shri T. A. Pai—*Convenor*
2. Ch. Hari Ram Makkasar Godara
3. Shri Harkesh Bahadur
4. Shri Ramachandran Kadannappalli
5. Shri Rajshekhar Kolur
6. Dr. Bijoy Mondal
7. Shri Raj Narain
8. Shri K. Ramamurthy
9. Shri Shrikrishna Singh
10. Shri Jagdambi Prasad Yadav

Rajya Sabha

11. Shri G. C. Bhattacharya
12. Shri Krishna Nand Joshi
13. Shri B. V. Abdulla Koya
14. Shri Kalraj Mishra
15. Shri Bhagwati Charan Varma

As on 7-8-1978

PARLIAMENTARY JOINT COMMITTEE ON THE MENTAL HEALTH BILL, 1978

COMPOSITION OF THE STUDY GROUP III-SOUTHERN REGION

(On-the-spot Visits to Mental Hospitals etc. at Bangalore, Madras and Visakhapatnam)

Lok Sabha

1. Dr. Sushila Nayar—*Chairman*
2. Dr. Baldev Prakash—*Convenor*
3. Shri Subhash Chandra Bose Alluri
4. Shri Anant Dave
5. Shri Raj Krishna Dawn
6. Shri Kacharulal Hemraj Jain
7. Shri Hukam Chand Kachwai
8. Dr. Saradish Roy
9. Shri H. L. P. Sinha
10. Shri Suraj Bhan
11. Shri Yuvraj

Rajya Sabha

12. Shri Swami Dinesh Chandra
13. Shri Robin Kakati
14. Shri Khyomo Lotha
15. Shrimati Ushi Khan

IV

Fourth Sitting

The Committee sat on Tuesday, the 3rd October, 1978 from 11.00 to 12.30 hours and again from 15.00 to 16.30 hours.

PRESENT

Dr. Sushila Nayar—*Chairman*

MEMBERS

Lok Sabha

2. Shri Anant Dave
3. Ch. Hari Ram Makkasar Godara
4. Shri Harikesh Bahadur
5. Shri S. Jaganathan
6. Shri Kacharulal Hemraj Jain
7. Shri Hukam Chand Kachwai
8. Dr. Bapu Kaldate
9. Shri Rajshekhar Kolur
10. Dr. Sarojini Mahishi
11. Shri Mallikarjun

12. Shri S. G. Murugaiyan
13. Shri K. Ramamurthy
14. Shri Rudolph Rodrigues
15. Shri Sakti Kumar Sarkar
16. Shri Shrikrishna Singh
17. Shri H. L. P. Sinha
18. Shri Suraj Bhan
19. Shri N. Tombi Singh
20. Shri Jagdambi Prasad Yadav

Rajya Sabha

21. Shri G. C. Bhattacharya
22. Shri Krishna Nand Joshi
23. Shri Robin Kakati
24. Shri Ibrahim Kalaniya
25. Shri Maqsood Ali Khan
26. Shri B. V. Abdulla Koya
27. Shri Khyomo Lotha
28. Shri Harekrushna Mallick
29. Shri Kalraj Mishra
30. Shrimati Purabi Mukhopadhyay
31. Shrimati Noorjehan Razack
32. Shrimati Ushi Khan
33. Shri Bhagwati Charan Varma

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

LEGISLATIVE COUNSEL

1. Shrimati V. S. Rama Devi—*Joint Secretary and Legislative Counsel.*
2. Shri Y. P. Sud—*Assistant Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

1. Shri K. P. Singh, *Additional Secretary.*
2. Shri R. K. Singhal, *Joint Secretary.*
3. Dr I. D. Bajaj, *Additional Director-General of Health Services.*
4. Shri Anand Prakash Atri, *Deputy Secretary.*

2. Before the Committee proceeded to hear the oral evidence of the representatives of the Federation for the Welfare of the Mentally Retarded (India), New Delhi mentioned below, the Chairman drew their attention to the provisions of Direction 58 of the Directions by the

1. Shri G. B. Pai—Vice-President.
2. Shri K. N. Bhat—Advocate

(11.30 to 12.30 hours)

3. The Committee rose at 12.30 hours and re-assembled at 15.00 hours.

4. Before the Committee proceeded to hear the oral evidence of the following Psychiatrists|Clinical Psychologists|Association, the Chairman drew their attention to provisions of Direction 59 of Directions by the Speaker:—

I. Dr. Deva Prasad Sen Mazumdar, Associate Professor & Head of the Department of Psychology, Ex-President, Indian Association of Clinical Psychologist, Central Institute of Psychiatry, Kanke, Ranchi.

(15.00 to 16.00 hours)

II. *Delhi Association of Clinical Psychologists*

Spokesman:

Dr. S. Dube,

Asstt. Professor of Clinical Psychology

All India Institute of Medical Sciences,

New Delhi,

President, Delhi Association of Clinical Psychologists.

III. *Indian Association of Clinical Psychologists, Lucknow*

Spokesmen:

1. Dr. S. B. Singh, President
2. Shri R. Kishore, Vice-President
3. Shri Ram Akshaibat Yadav, General Secretary.
4. Shri M. V. Singh, Special Member

(16.15 to 16.30 hours)

4. A verbatim record of proceedings was kept.

5. The Committee then adjourned to meet again on Wednesday, the 4th October, 1978 at 11.00 hours.

V

Fifth Sitting

The Committee sat on Wednesday, the 4th October, 1978 from 11.00 to 13.15 hours and again from 15.00 to 16.00 hours.

PRESESNT

Dr. Sushila Nayar—*Chairman*

MEMBERS

Lok Sabha

2. Ch. Hari Ram Makkasar Godara
3. Shri S. Jaganathan
4. Shri Kacharulal Hemraj Jain
5. Shri Hukam Chand Kachwai
6. Dr. Bapu Kaldate
7. Shri Rajshekhar Kolur

8. Dr. Sarojini Mahishi
9. Shri Mallikarjun
10. Shri S. C. Murugaiyan
11. Shri Rudolph Rodrigues
12. Shri Sakti Kumar Sarkar
13. Shri H. L. P. Sinha
14. Shri Suraj Bhan
15. Shri Jagdambi Prasad Yadav
16. Shri Yuvraj

Rajya Sabha

17. Shri G. C. Bhattacharya
18. Shri Krishna Nand Joshi
19. Shri Robin Kakati
20. Shri Ibrahim Kalaniya
21. Shri Khyomo Lotha
22. Shri Harekrushna Mallick
23. Shri Kalraj Mishra
24. Shrimati Purabi Mukhopadhyay
25. Shrimati Noorjehan Razack
26. Shrimati Ushi Khan
27. Shri Bhagwati Charan Varma

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

LEGISLATIVE COUNSEL

1. Shrimati V. S. Rama Devi—*Joint Secretary and Legislative Counsel.*
2. Shri Y. P. Sud—*Assistant Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

1. Shri K. P. Singh, *Additional Secretary.*
2. Shri R. K. Singhal, *Joint Secretary.*
3. Dr I. D. Bajaj, *Additional Director-General of Health Services.*
4. Shri Anand Prakash Atri, *Deputy Secretary.*

2. Before the Committee proceeded to hear the evidence of the following persons, the Chairman drew their attention to Direction 58 of the Directions by the Speaker:—

(i) Dr. Narendra N. Wig,

Professor and Heal of Department of Psychology, Post Graduate Institute of Medical Education and Research, Chandigarh.

(11.00 to 12.15 hours)

(ii) Dr. B. M. Debsikdar,

Director Kripmayee Nursing Home & Hon. Lecturer Miraj Medical College, Miraj.

(12.30 to 13 15 hours).

3. [The Committee rose at 13.15 hours and re-assembled at 15.00 hours].

4. Before the Committee proceeded to hear the evidence of Dr. Shanti Sheth, Consultant Psychiatrist, Bombay, the Chairman drew his attention to the provisions contained in Direction 58 of the Directions by the Speaker.

(15.00 to 16.00 hours)

5. A verbatim record of the evidence was kept.

6. The Committee then adjourned to meet again on Thursday, the 5th October, 1978, at 11.00 hours.

VI

Sixth Sitting

The Committee sat on Thursday, the 5th October, 1978 from 11.00 to 13.30 hours and again from 15.10 to 16.40 hours.

PRESENT

Dr. Sushila Nayar—*Chairman*

MEMBERS

Lok Sabha

2. Shri Anant Dave
3. Shri Raj Krishna Dawn
4. Ch. Hari Ram Makkasar Godara
5. Shri Harikesh Bahadur
6. Shri S. Jaganathan
7. Shri Kacharulal Hemraj Jain
8. Shri Hukam Chand Kachwai
9. Dr. Bapu Kaldate
10. Shri Rajshekhar Kolur
11. Dr. Sarojini Mahishi
12. Shri Mallikarjun
13. Shri S. G. Murugaiyan
14. Shri Rudolph Rodrigues
15. Shri Sakti Kumar Sarkar
16. Shri Shrikrishna Singh
17. Shri H. L. P. Sinha
18. Shri N. Tombi Singh
19. Shri Jagdambi Prasad Yadav
20. Shri Yuvraj

Rajya Sabha

21. Shri G. C. Bhattacharya
22. Shri Krishna Nand Joshi
23. Shri Robin Kakati
24. Shri Ibrahim Kalaniya
25. Shri Kyomo Lotha
26. Shri Harekrushna Mallick
27. Shri Kalraj Mishra
28. Shri Bhagwati Charan Varma

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

LEGISLATIVE COUNSEL

1. Shrimati V. S. Rama Devi—*Joint Secretary and Legislative Counsel.*
2. Shri Y. P. Sud—*Assistant Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

Shri Anand Prakash Atri—*Deputy Secretary.*

Shri P. B. Mazumdar—*Assistant Director General Health Services.*

*2. The Committee decided to undertake on-the-spot study visits to (i) Tihar Jail (Mental Ward), Delhi in the afternoon of Saturday, the 7th October, 1978 and (ii) the Mental Hospital, Agra on Sunday, the 22nd October, 1978.

*3. The Chairman informed the Members that as decided earlier the clause-by-clause consideration of the Bill would take place from 18th to 21st October and on the 23rd October, 1978. Members might, therefore, send their notices of amendment to the Lok Sabha Secretariat, so as to reach that Secretariat by Thursday, the 12th October, 1978.

*4. The Committee also decided that they might sit for consideration and adoption of the report on Friday, the 10th November, 1978 instead of 4th November, 1978 as decided earlier.

5. Before the Committee proceeded to hear the evidence of the following persons, the Chairman drew their attention to Direction 58 of the Directions by the Speaker:—

(i) Dr. C. K. Parikh,

Medico Legal Consultant,
Corresponding Member (Forensic Pathology)
American Academy of Forensic Sciences,
Bombay.

(11.30 to 12.00 hours)

*The Committee subsequently at its sitting held on 6-10-78 revised the time Schedule for visit to Agra, clause-by-clause consideration of the Bill and adoption of Report *vide* Minutes dated 6-10-78.

(ii) Dr. K. C. Dube,
Consulting Neuro-Psychiatrist,
Sr. Medical Superintendent (Retd.),
I/C Research Unit Mental Hospital, Agra.
(12.15 to 13.30 hours).

6. (The Committee rose at 13.30 hours and re-assembled at 15.10 hours)

7. Before the Committee proceeded to hear the evidence of the following persons, the Chairman drew their attention to Direction 58 of the Directions by the Speaker:—

(i) Dr. S. S. Jayaram,
Consultant Psychiatrist,
Bangalore Nursing Home,
Bangalore.
(15.10. to 15.40 hours)

(ii) Dr. L. P. Varma,
Ranchi.
(16.15 to 16.35 hours).

8. A verbatim record of the evidence was kept.

9. The Committee then adjourned to meet again on Friday, the 6th October, 1978 at 11.00 hours.

VII

Seventh Sitting

The Committee sat on Friday, the 6th October, 1978 from 11.00 to 13.00 hours and again from 15.00 to 16.45 hours.

PRESENT

Dr. Sushila Nayar—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Anant Dave
3. Shri Raj Krishna Dawn
4. Ch. Hari Ram Makkasar Godara
5. Shri Harikesh Bahadur
6. Shri S. Jaganathan
7. Shri Kacharulal Hemraj Jain
8. Shri Hukam Chand Kachwai
9. Shri Rajshekhar Kolur
10. Dr. Sarojini Mahishi
11. Shri Mallikarjun
12. Shri S. G. Murugaiyan
13. Shri K. Ramamurthy
14. Shri Rudolph Rodrigues

15. Shri Sakti Kumar Sarkar
16. Shri Shrikrishna Singh
17. Shri H. L. P. Sinha
18. Shri Yuvraj

Rajya Sabha

19. Shri R. D. Jagtap Avergoankar
20. Shri Krishna Nand Joshi
21. Shri Robin Kakati
22. Shri Maqsood Ali Khan
23. Shri Khyomo Lotha
24. Shrimati Noorjehan Razack
25. Shri Bhagwati Charan Varma.

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

LEGISLATIVE COUNSEL

1. Shrimati V. S. Rama Devi—*Joint Secretary and Legislative Counsel.*
2. Shri Y. P. Sud—*Assistant Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

Shri Anand Prakash Atri—*Deputy Secretary.*

Shri P. B. Mazumdar—*Assistant Director General Health Services.*

2. At the outset, some members expressed that the dates fixed for clause-by-clause consideration of the Bill from 18th to 21st and 23rd October, 1978 were not convenient to most of them as they had to be present in their constituencies due to unprecedented floods in the country. The Committee thereupon decided to take up clause-by-clause consideration of the Bill from the 8th to 11th and 13th November, 1978 instead of the dates mentioned above.

3. Consequent upon the change in the dates for clause-by-clause consideration of the Bill, the Chairman announced that:

(i) Members could send their notices of amendments to the Lok Sabha Secretariat by Wednesday, the 25th October, 1978 instead of the 12th October, 1978 as fixed on 5th October, 1978; and

(ii) On-the-spot visit to the Mental Hospital in Agra would take place on Sunday, the 12th November, 1978 instead of Sunday, the 22nd October, 1978 as earlier fixed.

4. Before the committee proceeded to hear the evidence of the following persons, the Chairman drew their attention to Direction 58 of the Directions by the Speaker:—

(i) Colonel (Dr.) Kirpal Singh, National Professor Psychiatry Consultant Psychiatrist, New Delhi.

(11.15 to 12.00 hours)

(ii) Dr. G. G. Prabhu, Assistant Professor of Clinical Psychology, Deptt. of Psychiatry, All India Institute of Medical Sciences, New Delhi.

(12.15 to 13.00 hours)

5. The Committee rose at 13.00 hours and re-assembled at 15.15 hours.

6. Before the Committee proceeded to hear the evidence of the following persons, the Chairman drew their attention the provisions of Direction 58 of the Directions by the Speaker:—

(i) Dr. S. Dutta Ray, Hon. Psychiatrist, Holy Family Hospital, Tirath Ram Shah Hospital and St. Stephens Hospital, New Delhi.

(15.15 to 15.45 hours)

(ii) Dr. R. L. Kapur, Professor and Head of Department of Psychiatry, National Institute of Mental Health and Neuro Sciences, Bangalore.

(15.45 to 16.45 hours)

7. A verbatim record of the evidence was kept.

8. The Committee then adjourned to meet again on Saturday, the 7th October, 1978 at 11.00 hours.

VIII

Eighth Sitting

The Committee sat on Saturday, the 7th October, 1978 from 11.30 to 12.15 hours.

PRESENT

Dr. Sushila Nayar—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Anant Dave
3. Shri Harikesh Bahadur
4. Shri Kacharulal Hemraj Jain
5. Shri Hukam Chand Kachwai
6. Dr. Bapu Kaldate
7. Shri Rajshekhar Kolur
8. Dr. Sarojini Mahishi
9. Shri Mallikarjun
10. Shri S. G. Murugaiyan
11. Shri K. Ramamurthy
12. Shri Rudolph Rodrigues
13. Shri Sakti Kumar Sarkar
14. Shri Shrikrishna Singh

15. Shri H. L. P. Sinha
16. Shri Yuvraj

Rajya Sabha

17. Shri R. D. Jagtap Avergoankar
18. Shri Swami Dinesh Chandra
19. Shri Krishna Nand Joshi
20. Shri Ibrahim Kalaniya
21. Shri Maqsood Ali Khan
22. Shri Kalraj Mishra
23. Shrimati Ushi Khan
24. Shri Bhagwati Charan Varma.

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

LEGISLATIVE COUNSEL

1. Shrimati V. S. Rama Devi—*Joint Secretary and Legislative Counsel.*
2. Shri Y. P. Sud—*Assistant Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

Shri Anand Prakash Atri—*Deputy Secretary.*

Shri P. B. Mazumdar—*Assistant Director General Health Services.*

2. Before the Committee proceeded to hear the evidence of Dr. (Brig.) S. S. Syalee, Consulting Psychiatrist and Neuro-physician, New Delhi, the Chairman drew his attention to Direction 58 of the Directions by the Speaker.

(11.30 to 12.15 hours)

A verbatim record of the evidence was kept.

Before the Committee adjourned at 12.15 hours, the Chairman informed the Members that the last witness to appear before the Committee, Shri A. B. Dutt, Superintendent Bangiya Unmad Asram, Datta Nagar, Calcutta and not presented himself for the purpose.

At 14.00 hours when the Chairman and members of the Committee had assembled again at Parliament House Annexe to start for on-the-spot visit of the Mental Ward of the Tihar Jail, Delhi, Shri A B. Dutt presented himself before the Chairman and members and stated that due to unprecedented floods in West Bengal, IAC flight Calcutta-Delhi in the morning was delayed and he could reach Delhi Airport only at 13.00 hours. The circumstances beyond his control, prevented him to appear before the Committee in time. He also stated that he had requested IAC authorities at Calcutta airport to convey his inability to appear before the Committee in time to the Lok Sabha Secretariat, but it appeared that they had not done so. He pleaded that he might be given a

chance to present his views before the Committee. The Chairman accepted his plea and decided that members might hear his views.

Thereupon the Chairman and members present, assembled in Committee Room 'B' of Parliament House Annexe and heard the views of Shri Dutt from 14.10 to 14.40 hours. Questions were asked and clarifications sought on the suggestions made by him in his memorandum already circulated to the members. Shri Dutt also presented a Supplementary Memorandum suggesting further amendments to the Bill. The Chairman observed that the supplementary memorandum together with amendments suggested by Shri Dutta, might be circulated to all the members of the Committee well before the Committee start clause-by-clause consideration of the Bill.

As official reporters could not be present at short notice, no record of the evidence was kept.

Before the members dispersed, they requested Shri Dutt if he could make it convenient to come to Delhi again and appear before the Committee at next sitting fixed for 8th November, 1978 at 14.00 hours so that other members of the Committee could know his views before the Committee started taking up clause-by-clause consideration of the Bill. Shri Dutt was also informed that no TA|DA would, however, be paid for the second trip to Delhi for the purpose. Shri Dutt agreed to this and stated that he would appear before the Committee at 14.00 hours on the 8th November, 1978 at his own cost as desired.

The Committee then adjourned.

IX

Ninth Sitting

The Committee sat on Wednesday, the 8th November, 1978 from 14.00 to 16.00 hours.

PRESENT

Dr. Sushila Nayar—*Chairman*

MEMBERS

Lok Sabha

2. Shri Harikesh Bahadur
3. Shri S. Jaganathan
4. Shri Kacharulal Hemraj Jain
5. Dr. Bapu Kaldate
6. Dr. Sarojini Mahishi
7. Shri Mallikarjun
8. Shri K. Ramamurthy
9. Shri Rudolph Rodrigues

10. Shri Sakti Kumar Sarkar
11. Shri H. L. P. Sinha
12. Shri N. Tombi Singh
13. Shri Jagdambi Prasad Yadav
14. Shri Yuvraj

Rajya Sabha

15. Shri R. D. Jagtap Avergoankar
16. Shri Swami Dinesh Chandra
17. Shri Krishna Nand Joshi
18. Shri Ibrahim Kalaniya
19. Shri Maqsood Ali Khan
20. Shrimati Ushi Khan
21. Shri Bhagwati Charan Varma

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

LEGISLATIVE COUNSEL

1. Shrimati V. S. Rama Devi—*Joint Secretary and Legislative Counsel.*
2. Shri Y. P. Sud—*Assistant Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

1. Shri K. P. Singh, *Additional Secretary.*
2. Shri R. K. Singhal, *Joint Secretary.*
3. Dr. I. D. Bajaj, *Additional Director-General of Health Services.*
4. Shri Anand Prakash Atri, *Deputy Secretary.*
5. Shri J. S. Neki, *Director, Post Graduate Institute of Medical Education and Research, Chandigarh.*

2. Before Shri A. B. Dutt, Superintendent, Bangiya Unmad Asram, Calcutta proceeded to give evidence, the Chairman drew his attention to the provisions of the Direction 58 of the Directions by the Speaker.

3. The evidence lasted till 15.00 hours.

4. A verbatim record of the evidence was kept.

5. The Committee then took up general discussion on the procedure for taking up clause-by-clause consideration of the Bill. After some discussion, the Committee decided to take up clause-by-clause consideration of the Bill at their next sitting to be held at 14.00 hours on Thursday, the 9th November, 1978.

6. The Committee then adjourned.

X

Tenth Sitting

The Committee sat on Thursday, the 9th November, 1978 from 14.15 to 17.15 hours.

PRESENT

Dr. Sushila Nayar—*Chairman*

MEMBERS

Lok Sabha

2. Shri Raj Krishna Dawn
3. Shri S. Jaganathan
4. Shri Kacharulal Hemraj Jain
5. Dr. Bapu Kaldate
6. Shri Rajshekhar Kolur
7. Dr. Sarojini Mahishi
8. Dr. Bijoy Mondal
9. Shri Radolph Rodrigues
10. Shri Sakti Kumar Sarkar
11. Shri H. L. P. Sinha
12. Shri N. Tombi Singh
13. Shri Jagdambi Prasad Yadav
14. Shri Yuvraj

Rajya Sabha

15. Shri G. C. Bhattacharya
16. Shri Swami Dinesh Chandra
17. Shri Krishna Nand Joshi
18. Shri Ibrahim Kalaniya
19. Shri Maqsood Ali Khan
20. Shri B. V. Abdulla Koya
21. Shri Khyomo Lotha
22. Shri Kalraj Mishra
23. Shrimati Purabi Mukhopadhyay
24. Shrimati Ushi Khan
25. Shri Bhagwati Charan Varma

SECRETARIAT

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REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

1. Shri K. P. Singh, Additional Secretary
2. Shri R. K. Singhal, Joint Secretary
3. Shri Anand Prakash Atri, Deputy Secretary
4. Dr. J. S. Neki, Director Post Graduate Institute of Medical Education and Research, Chandigarh.

2. The Committee took up clause-by-clause consideration of the Bill.

3. *Clause* 2.—The following amendments were accepted:—

(i) Page 2,

(a) line 1, *omit* "and shall, unless the State"

(b) *omit* lines 2 to 8.

(ii) Page 2, line 36,

for "a general or special order"

substitute "an order"

(iii) Page 3, line 1,

for "offender"

Substitute "prisoner"

(iv) Page 3, *for* lines 5 to 11, *substitute*

"(m) 'mentally ill person' means a person who is in need of treatment by reason of mental disorder;"

(v) Page 3, line 23,

After "persons"

add "but does not include any General Hospital or general nursing home established and maintained by the Government and which provides also for psychiatric services"

The clause, as amended, was adopted.

4. *Clause* 3.—The following amendments were accepted:—

(i) Page 3, line 48,

for "eighteen"

substitute "sixteen"

(ii) Page 3, *after* line 48,

add (aa) those who are addicted to alcohol or other drugs which lead to behavioural changes in a person"

The clause, as amended, was adopted.

5. *Clause* 4.—The following amendment was accepted:—

Page 4, line 10,

for "an asylum"

substitute "a psychiatric hospital or psychiatric nursing home (whether called asylum or by any other name)"

The clause, as amended, was adopted.

6. *Clause* 5.—The clause was adopted without any amendment.

7. The Committee then decided that they might sit at 10.00 hours instead of 09.00 hours on Friday, the 10th November, 1978.

8. The Committee then adjourned.

XI

Eleventh Sitting

The Committee sat on Friday, the 10th November, 1978 from 10.30 to 13.00 hours.

PRESENT

Dr. Sushila Nayar—*Chairman*

MEMBERS

Lok Sabha

2. Shri Raj Krishna Dawn
3. Dr. Bapu Kaldate
4. Shri Rajshekhar Kolur
5. Dr. Sarojini Mahishi
6. Dr. Bijoy Mondal
7. Shri Rudolph Rodrigues
8. Shri Sakti Kumar Sarkar
9. Shri H. L. P. Sinha
10. Shri N. Tombi Singh

Rajya Sabha

11. Shri G. C. Bhattacharya
12. Shri Krishna Nand Joshi
13. Shri Ibrahim Kalaniya
14. Shri B. V. Abdulla Koya
15. Shri Khyomo Lotha
16. Shrimati Purabi Mukhopadhyay
17. Shri Bhagwati Charan Varma

SECRETARIAT

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REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

1. Shri K. P. Singh, *Additional Secretary.*
2. Shri Anand Prakash Atri, *Deputy Secretary.*

3. Dr. J. S. Neki, *Director, Post Graduate Institute of Medical Education and Research, Chandigarh.*

4. Shri P. B. Mazumdar, *Assistant Director-General Health Services.*

2. The Committee resumed further clause-by-clause consideration of the Bill.

3. *Clause* 6.—The following amendment was accepted:—

Page 4, lines 44—46,

omit ", having regard to the needs of the area in which such hospital or nursing home is proposed to be established or maintained or continued to be maintained"

The clause, as amended, was adopted.

4. *Clause* 7.—The following amendments were accepted:—

(i) Page 5, line 11,

for "7"

substitute "7(1)"

(ii) Page 5, *after* line 11, *add*—

"(2) Where a licensee is unable to function as such for any reason or where a licensee dies, the licensee or, as the case may be, representative in interest of such licensee shall forthwith report the matter in the prescribed manner to the licensing authority and notwithstanding anything contained in sub-section (1), the psychiatric hospital or psychiatric nursing home concerned may continue to be maintained and shall be deemed to be a licensed psychiatric hospital or licensed psychiatric nursing home, as the case may be—

(a) for a period of three months from the date of such report or in the case of the death of the licensee from the date of his death; or

(b) if an application made in accordance with sub-section (3) for a licence is pending on the expiry of the period specified in clause (a), till the disposal of such application.

(3) The representative in interest of the licensee referred to in sub-section (2), shall, if he intends to continue the maintenance of the psychiatric hospital or nursing home after the expiry of the period referred to in sub-section (2), make, at least one month before the expiry of such period, an application to the licensing authority for the grant of a fresh licence for the maintenance of such hospital or nursing home, as the case may be, and the provisions of section 6 shall apply in relation to such application as they apply in relation to an application made under section 5."

The clause, as amended, was adopted.

5. *Clause* 2.—(vide *para* 3 *of the minutes dated the* 9*th November*, 1978)—Consideration of this clause was re-opened and the following amendment was accepted:—

Page 3, lines 27-28,
for "other person"
substitute "medical officer"

The clause, as further amended, was adopted.

6. *Clause* 8.—The clause was adopted without any amendment.

7. *Clause* 9.—The following amendments were accepted:—

(i) Page 5, line 17,
(i) *omit* "as far as possible"
(ii) *after* "made" *insert* "not less than"

(ii) Page 5, *omit* lines 21-22.

The clause, as amended, was adopted.

8. *Clause* 10.—The following amendment was accepted:—

Page 5, *for* lines 32—34, *substitute*—

"10. Every psychiatric hospital or psychiatric nursing home shall be maintained in such manner and subject to such conditions as may be prescribed."

The clause, as amended, was adopted.

9. *Clause* 11.—The following amendments were accepted:—
Page 6, line 9,
(i) *after* "moral" *insert* "mental"
(ii) *for* "and" *substitute* "or"

The clause, as amended, was adopted.

10. *Clause* 12.—The clause was adopted without any amendment.

Psychiatric Hospital and Psychatric Nursing Home to be maintained in accordance with prescribed Conditions.

11. *Clause* 13.—The following amendments were accepted:—

(i) Page 6, *for* lines 39-40, *substitute*

"Provided that any personal records of a patient so inspected shall be kept confidential except for the purposes of sub-section (3)"

(ii) Page 7, *omit* lines 3 to 7.

The clause, as amended, was adopted.

12. *Clause* 14.—The following amendments were accepted:—
Page 7,

(a) line 15, *omit* "licensed"

(b) line 16, *omit* "licensed"

The clause, as amended, was adopted.

13. *New Chapter* 1A.—The following new Chapter was adopted:—

Page 3, *after* line 39, *add*

"CHAPTER IA

MENTAL HEALTH AUTHORITIES

Central Authority for Mental Health Services.

2A. (1) The Central Government shall establish an Authority for mental health with such designation as it may deem fit.

(2) The Authority established under sub-section (1) shall be subject to the superintendence direction and control of the Central Government.

(3) The Authority established under sub-section (1) shall—

(a) be in charge of regulation, development, direction and co-ordination with respect to Mental Health Services under the Central Government and all other matters which, under this Act, are the concern of the Central Government or any officer or authority subordinate to the Central Government;

(b) supervise the psychiatric hospitals and nursing homes and other Mental Health Service agencies (including places in which mentally ill persons may be kept or detained) under the control of the Central Government;

(c) advise the Central Government on all matters relating to mental health; and

(d) discharge such other functions with respect to matters relating to mental health; as the Central Government may require.

Explanation.—For the purposes of this Section and Section 2B, "Mental Health Services" include, in addition to psychiatric hospitals and psychiatric nursing homes, observation wards, day-care centres, inpatient treatment in general hospitals, ambulatory treatment facilities and other facilities, convalescent homes and half-way-homes for mentally ill persons.

State Authority for Mental Health Services.

2B. (1) The State Government shall establish an Authority for mental health with such designation as it may deem fit.

(2) The Authority established under sub-section (1) shall be subject to the superintendence, direction and control of the State Government.

(3) The Authority established under sub-section (1) shall—

(a) be in charge of regulation, development and co-ordination with respect to Mental Health Services under the State Government and all other matters which, under this Act, are the concern of the State Government or any officer or authority subordinate to the State Government;

(b) supervise the psychiatric hospitals and nursing homes and other Mental Health Service Agencies (including places in which mentally ill persons may be kept or detained) under the control of the State Government;

(c) advise the State Government on all matters relating to mental health; and

(d) discharge such other functions with respect to matters relating to mental health as the State Government may require."

14. The Committee then adjourned to meet at 11.00 hours on Saturday, the 11th November, 1978.

XII

Twelfth Sitting

The Committee sat on Saturday, the 11th November, 1978 from 11.15 to 13.15 hours and again from 15.00 to 17.00 hours.

PRESENT

Dr. Sushila Nayar—*Chairman*

MEMBERS

Lok Sabha

2. Shri Raj Krishna Dawn
3. Shri S. Jaganathan
4. Dr. Bapu Kaldate
5. Shri Rajeshekhar Kolur
6. Dr. Sarojini Mahishi
7. Dr. Bijoy Mondal
8. Shri S. G. Murugaiyan
9. Shri K. Ramamurthy
10. Shri Rudolph Rodrigues
11. Shri Sakti Kumar Sarkar
12. Shri Shrikrishna Singh
13. Shri H. L. P. Sinha
14. Shri Suraj Bhan

15. Shri R. D. Jagtap Avergoankar
16. Shri Krishna Nand Joshi
17. Shri Maqsood Ali Khan
18. Shri B. V. Abdulla Koya
19. Shri Khyomo Lotha
20. Shrimati Purabi Mukhopadhyay
21. Shrimati Noorjehan Razack
22. Shri Bhagwati Charan Varma

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer*

LEGISLATIVE COUNSEL

1. Shrimati V. S. Rama Devi—*Joint Secretary and Legislative Counsel.*
2. Shri Y. P. Sud—*Assistant Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

1. Shri K. P. Singh, *Additional Secretary.*
2. Shri Anand Prakash Atri, *Deputy Secretary.*
3. Dr. J. S. Neki, *Director, Post Graduate Institute of Medical Education and Research, Chandigarh.*
4. Shri P. B. Mazumdar, *Assistant Director-General Health Services.*

2. The Committee resumed further clause-by-clause consideration of the Bill.

3. *Clause* 15.—The following amendments were accepted:—

(i) Page 7, line 25, *omit* "(11)"

(ii) Page 7, line 28,
after "behalf"
insert "in the prescribed form"

(iii) Page 7, line 30,
insert the following marginal heading
"Application by Guardian for admission of a ward"

(iv) Page 7, line 31,
for "(2)" *substitute* "(16)"

(v) Page 7, line 33,
after "behalf"
insert "in the prescribed form"

(vi) Page 7, line 35,

for "(3)" *substitute* "17."

(vii) Page 7, lines 35-36,

for "sub-section (1) or sub-section (2)"

substitute "Section 15 or Section 16"

The clause, as amended, was adopted.

4. *Clause* 16.—The Committee were of the opinion that it would not be desirable to make the voluntary patients liable to pay the cost of maintenance. It should better be left to the discretion and decision of the State Government whether a voluntary patient, admitted to a psychiatric hospital or psychiatric nursing home, should pay the cost of his maintenance or not.

The clause had, therefore, been omitted.

5. *Clause* 17.—The following amendments were accepted:—

Page 8,

(i) line 9, *omit* "licensed"

(ii) line 10, *omit* "licensed"

and consequential amendments to be made in other clauses.

(iii) line 11,

after "made by the"

insert "medical officer in-charge or the"

The clause, as amended, was adopted.

6. *Clause* 18.—The following amendments were accepted:

(i) Page 8, lines 18—20,

for "for a period not exceeding thirty days at a time and not exceeding one hundred and eighty days in the aggregate"

substitute "for such period as the medical officer-in-charge may deem necessary"

(ii) Page 8, *after* line 21 *add*—

"Provided that the total number of days for which leave of absence may be granted to a patient under this sub-section shall not exceed sixty-days"

(iii) Page 8, line 30,

after "inpatient"

insert "unless the medical officer initiates action under sub-section (3) of section (20)"

The clause, as amended, was adopted.

7. *Clause* 19.—The following amendments were accepted:—

(i) Page 8, line 36,

after "relative"

insert "or a friend"

(ii) Page 8, line 45,

omit "(including a psychiatrist)"

(iii) Page 9, *after* line 4,

add "Provided that the Medical Officer-in-charge of the psychiatric hospital or psychiatric nursing home concerned may, if satisfied that it is proper so to do cause the mentally ill person to be examined by two Medical Practitioners working in the hospital or in the nursing home instead of requiring such certificates."

(iv) Page 9, line 6,

after "relative"

insert "or friend"

The clause, as amended, was adopted.

8. *Clauses* 20 *and* 21.—The clauses were adopted without any amendment.

9. The Committee rose at 13.15 hours and reassembled at 15.00 hours. Further clause-by-clause consideration of the Bill was resumed.

10. *Clause* 22.—The clause was adopted subject to consequential changes.

11. *Clause* 23.—The following amendments were accepted:—

(i) Page 11, line 39,

(a) *for* "personally"

substitute "independently"

(b) *after* "person"

add "and has formed his opinion on the basis of his own observations and from the particulars communicated to him; and"

(ii) Page 12, *omit* lines 1 to 4.

The clause, as amended, was adopted.

12. *Clause* 24.—The following amendment was accepted:—

Page 12, line 16,

for "allegations"

substitute "statements"

The clause, as amended, was adopted.

13. *Clauses* 25 *and* 26.—The clauses were adopted without any amendment.

14. *Clause* 27.—The following amendment was accepted:—

Page 14, *after* line 25, *add*—

"(1A) Any private person who has reason to believe that any person is mentally ill and is not under proper care and con-

trol, or is ill-treated or neglected by any relative or other person having charge of such mentally ill person, may report the fact to the magistrate within the local limits of whose jurisdiction the mentally ill person resides."

The clause, as amended, was adopted.

15. *Clauses* 28 *and* 29.—The clauses were adopted without any amendment.

16. *Clause* 30.—The following amendment was accepted:—

Page 16, line 16,

for "offender"

substitute "prisoner"

The clause, as amended, was adopted.

17. *Clause* 31.—The following amendment was accepted:—

Page 16, line 25,

for "in suitable custody"

substitute "under proper medical custody in an observation ward of a general hospital or general nursing home or psychiatric hospital or psychiatric nursing home or in any other suitable place"

The clause, as amended, was adopted.

18. *Clause* 32.—The following amendment was accepted:—

Page 16, line 40,

after "detained"

insert "for such period not exceeding thirty days"

The clause, as amended, was adopted.

19. *Clause* 33.—The clause was adopted without any amendment.

20. *Clause* 34.—The following amendments were accepted:—

Page 17,

(i) line 34, *for* "Court" *substitute* "District Court",

(ii) line 35, *for* "Court" *substitute* "District Court";
and consequential amendments in other clauses to be made accordingly.

The clause, as amended, was adopted.

21. *Clauses* 35, 36, 37, 38 *and* 39.—The clauses were adopted without any amendment.

22. The Committee then adjourned to meet again at 11.00 hours on Monday, the 13th November, 1978.

XIII

Thirteenth Sitting

The Committee sat on Monday, the 13th November, 1978 from 11.00 to 13.30 hours and again from 15.00 to 16.00 hours.

PRESENT

Dr. Sushila Nayar—*Chairman*

MEMBERS

Lok Sabha

2. Shri Raj Krishna Dawn
3. Shri S. Jaganathan
4. Shri Kacharulal Hemraj Jain
5. Dr. Bapu Kaldate
6. Shri Rajshekhar Kolur
7. Dr. Sarojini Mahishi
8. Shri Mallikarjun
9. Dr. Bijoy Mondal
10. Shri S. G. Murugaiyan
11. Shri K. Ramamurthy
12. Shri Sakti Kumar Sarkar
13. Shri Shrikrishna Singh
14. Shri H. L. P. Sinha
15. Shri Suraj Bhan
16. Shri N. Tombi Singh
17. Shri Jagdambi Prasad Yadav
18. Shri Yuvraj

Rajya Sabha

19. Shri Swami Dinesh Chandra
20. Shri Krishna Nand Joshi
21. Shri Ibrahim Kalaniya
22. Shri B. V. Abdulla Koya
23. Shrimati Purabi Mukhopadhyay
24. Shrimati Noorjehan Razack
25. Shrimati Ushi Khan

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

LEGISLATIVE COUNSEL

1. Shrimati V. S. Rama Devi—*Joint Secretary and Legislative Counsel.*
2. Shri Y. P. Sud—*Assistant Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

1. Shri R. K. Shinghal, *Joint Secretary.*
2. Shri Anand Prakash Atri, *Deputy Secretary.*
3. Dr. J. S. Negi, *Director, Post Graduate Institute of Medical Education and Research, Chandigarh.*
4. Shri P. B. Mazumdar, *Assistant Director General, Health Services.*

2. The Committee resumed further clause-by-clause consideration of the Bill.

3. *Clause* 2.—(*Vide para* 5 *of the minutes dated the* 10*th November,* 1978):—Consideration of this clause was re-opened and the following amendments were accepted:—

(i) (*vide para* 5 *of the minutes dated the 9th November,* 1978):—

The Legislative Counsel informed the Committee that in individual cases, the State Government would be issuing 'special order' whereas in the case of a class or category of medical practitioners in other cases involving more than one medical practitioner the State Government would be issuing a general order. Therefore, in order to distinguish between two types of cases, the Committee may reconsider their earlier decision and keep the definition of the term "medical officer" in its original form. The Committee accepted the advice given by the Legislative Counsel and decided that the amendment already accepted may be withdrawn.

(ii) Page 2, lines 45 to 48,

omit "or a person whose name has been registered in a State Medical Register in accordance with the provisions of any other law relating to the registration of medical practitioners for the time being in force".

The clause, as further amended, was adopted.

4. *Clause* 40.—The following amendment was accepted:—

Page 19, line 42,

omit "The Inspector-General of Prisons and"

The clause, as amended, was adopted.

5. *Clause* 41.—The following amendment was accepted:—

Page 20, *for* line 7,

substitute "and examine every minor admitted as a voluntary patient under section 17 and, as far as circumstances will permit, every other mentally"

The clause, as amended, was adopted.

6. *Clause* 42.—The following amendments were accepted:—

(i) Page 20, line 23,

(*for* "or" *substitute* "and"

(ii) Page 20, line 24,

omit "the Inspector-General of Prisons and"

(iii) Page 20, line 28,

for "six" *substitute* "three"

(iv) Page 20, line 41,

for "six" *substitute* "three"

The clause, as amended, was adopted.

7. *Clause* 43.—The following amendment was accepted:—

Page 21, *for* lines 3 to 5 *substitute*—

"43(I). Notwithstanding anything contained in Chapter III, the Medical Officer in charge of a psychiatric hospital or psychiatric nursing home may, on the recommendation of two Medical Practitioners working in that hospital or nursing home, by order, in"

The Clause, as amended, was adopted subject to other consequential changes.

Clauses 44 *and* 45.—The clauses were adopted without any amendment.

9. *Clause* 46.—The following amendment was accepted:—

Page 21, lines 42-43,

after "magistrate"

insert "here necessary under the provisions of this Act."

The clause, as amended, was adopted.

10. *Clause* 47.—The clause was adopted without any amendment.

11. *Clause* 48.—The clause was adopted subject to consequential changes as a result of amendment already accepted to Clause 18.

12. *Clause* 49.—The clause was adopted without any amendment.

13. *Clause* 50.—The clause was adopted subject to consequential changes.

14. *Clause* 51.—The clause was adopted without any amendment.

15. *Clause* 52.—The following amendment was accepted:—

Page 24, line 11,

for "thirty"

substitute "sixty"

The clause, as amended, was adopted.

16. *Clauses* 53, 54, 55 *and* 56.—The clauses were adopted without any amendment.

17. *Clause* 57.—The following amendment was accepted:—

Page 26, *after* line 18, *add*—

"Provided that, no person, who is the legal heir of the mentally ill person, shall be appointed to be the manager unless the District Court or, as the case may be, the Collector, for reasons to be recorded in writing, consider that such appointment is for the benefit of the mentally ill person".

The clause, as amended, was adopted.

18. *Clause* 58.—The following amendment was accepted:—

Page 26, *after* line 23, *add*—

"Provided that, no person, who is the legal heir of the mentally ill person, shall be appointed to be the manager unless the District Court or as the case may be, the Collector, for reasons to be recorded in writing, consider that such appointment is for the benefit of the mentally ill person".

The clause, as amended, was adopted.

19. *Clause* 59.—The clause was adopted without any amendment.

20. *Clause* 60.—The following amendments were accepted:—

(i) Page 26, line 29,

for "and"

substitute "or"

(iii) Page 26, line 30,

after "property", *insert* "or both".

The clause, as amended, was adopted.

21. *Clauses* 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71 72; 73; 74; 75; 76; 77; 78, 79 and 80.—The clauses were adopted without any amendment.

22. The Committee rose at 13.30 hours and reassembled at 15.00 hours. Further clause-by-clause consideration of the Bill was taken up.

23. *Clause* 81.— The clause was adopted without any amendment.

24. *Clause* 82.—The Committee were of the opinion that it was not desirable to sell the property found in the possession of mentally ill-person found wandering and applying it towards the cost of his maintenance in a psychiatric hospital or psychiatric nursing home as it would cause hardships to the mentally ill person.

The clause had, therefore, been omitted.

25. *Clause* 83.—The following amendment was accepted:—

Page 31, *omit* lines 27—29.

The clause, as amended, was adopted.

26. *Clause* 84.—The clause was adopted without any amendment.

27. *New Chapter VI A.*—The following new Chapter was adopted:—

Page 31, *after* line 32, *add*—

CHAPTER VI A

PROTECTION OF HUMAN RIGHTS OF MENTALLY ILL PERSONS

Mentally ill persons to be treated without violation of human rights.

84A. (1) No mentally ill person shall be subjected during treatment to any indignity (whether physical or mental) or cruelty.

(2) A mentally ill person under treatment shall not be subjected to mechanical restraint, solitary confinement or other harsh measures, unless the medical practitioner concerned is satisfied that there are compelling circumstances which justify resort to any such measure:

Provided that whenever the medical practitioner considers it necessary to have resort to any such measure he shall record his reasons therefor in writing.

(3) No mentally ill person under treatment shall be used for purposes of research, unless—

(i) such research is of direct benefit to him for purposes of diagnosis or treatment; or

(ii) such person, being a voluntary patient, has given his consent in writing, or where such person (whether or not a voluntary patient) is incompetent, by reason of minority or otherwise, to give valid consent, the guardian or other person competent to give consent on his behalf has given his consent in writing for such research.

(4) Subject to any rules made in this behalf under section 97 for the purposes of preventing vexatious or defamatory communications or communications prejudicial to the treatment of mentally ill person, no letters or other communications sent by or to a mentally ill person under treatment shall be intercepted, detained or destroyed."

28. *Clauses* 85, 86, 87, 88, 89, 90, 91, 92, 93, 94 and 95.—The clauses were adopted subject to drafting and consequential changes as a result of amendments to other clauses having been accepted.

29. *Clause* 96.—The following amendment was accepted:—

Page 34, lines 20-21—

for "in the State of Jammu and Kashmir shall, in relation to that State,"

substitute "in any area shall, in relation to that area,"

The clause, as amended, was adopted.

30. *Clause* 97.—The following amendments were accepted:—

(i) Page 34, line 24,

after "Government"

Insert ", with the previous approval of the Central Government".

(ii) Page 34, *after* line 25, *insert*

"Provided that the first rule shall be made by the Central Govment by notification in the Official Gazette."

(iii) Page 35, *for* lines 12-13, *substitute* "9 including,—

(i) psychiatrist—patient ratio;

(ii) other medical or para-medical staff;

(iii) space requirement;

(iv) treatment facilities; and

(v) equipment."

(iv) Page 35, line 30,

after "40"

add "and their functions".

(v) Page 35, *after* line 30, *add*—

"(kk) qualifications of persons to be appointed as Mental Health Authority and norms of supporting services."

(vi) Page 35, *after* line 35, *add*—

Rules made by Central Government to be laid before Parliament.

"(97A) Every rule made by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in the session of two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

The clause, as amended, was adopted subject to consequential changes as a result of amendments to other clauses having already been accepted.

31. *Clauses* 98, 99 *and* 100.—The clauses were adopted without any amendment.

32. *Clause* 1.—The clause was adopted without any amendment.

33. *Enacting Formula.*—The enacting formula was adopted without any amendment.

34. *Long Title.*—The long title was adopted without any amendment.

35. The Committee then decided that—

(i) the evidence tendered before the Committee be laid on the Tables of both Houses of Parliament; and

(ii) two copies of the memoranda containing comments/suggestions received from various organisations/individuals etc. be placed in the Parliament Library, after the report had been presented, for reference by the Members of Parliament.

36. The Committee authorised the Legislative Counsel to correct patent errors, if any, and to carryout amendments of verbal and consequential nature in the Bill.

37. The Committee also decided to hold their next sitting on Tuesday, the 21st November, 1978 at 15.00 hours to consider and adopt their draft Report.

38. The Chairman then drew the attention of the Members to the provisions contained in Direction 87 of the Directions by the Speaker regarding Minutes of Dissent.

39. The Chairman announced that the report of the Committee would be presented to Lok Sabha and laid on the Table of Rajya Sabha on Friday, the 24th November, 1978. The Minutes of Dissent, if any, might be sent, after the Report had been considered and adopted, to the Lok Sabha Secretariat so as to reach them by 13.00 hours on Thursday, the 23rd November, 1978.

40. The Committee then adjourned.

XIV

Fourteenth Sitting

The Committee sat on Tuesday, the 21st November, 1978 from 15.00 to 15.45 hours.

PRESENT

Dr. Sushila Nayar—*Chairman*

MEMBERS

Lok Sabha

2. Shri Raj Krishna Dawn
3. Shri Harikesh Bahadur
4. Shri Kacharulal Hemraj Jain
5. Shri Hukam Chand Kachwai
6. Dr. Bapu Kaldate
7. Shri Rajshekhar Kolur
8. Dr. Sarojini Mahishi
9. Dr. Bijoy Mondal
10. Shri Rudolph Rodrigues
11. Dr. Saradish Roy
12. Shri Sakti Kumar Sarkar
13. Shri Shrikrishna Singh
14. Shri H. L. P. Sinha
15. Shri N. Tombi Singh
16. Shri Jagdambi Prasad Yadav

17. Shri Krishna Nand Joshi
18. Shri Robin Kakati
19. Shri Harekrushna Mallick
20. Shrimati Purabi Mukhopadhyay
21. Shrimati Noorjehan Razack
22. Shrimati Ushi Khan
23. Shri Bhagwati Charan Varma

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

LEGISLATIVE COUNSEL

1. Shrimati V. S. Rama Devi—*Joint Secretary and Legislative Counsel.*
2. Shri Y. P. Sud—*Assistant Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE (DEPARTMENT OF HEALTH)

1. Shri K. P. Singh, *Additional Secretary.*
2. Shri R. K. Singhal, *Joint Secretary.*
3. Dr. I. D. Bajaj, *Additional Director-General of Health Services.*
4. Shri Anand Prakash Atri, *Deputy Secretary.*
5. Shri J. S. Neki, *Director, Post Graduate Institute of Medical Education and Research, Chandigarh.*

2. The Committee considered and adopted the Bill, as amended.

3. The Committee then considered and adopted the draft report subject to certain modifications as shown in Annexure.

4. The Chairman announced that the Minutes of Dissent, if any, might be sent to the Lok Sabha Secretariat so as to reach them by 13.00 hours, on Thursday, the 23rd November, 1978.

5. The Committee authorised the Chairman and, in her absence, Dr. Sarojini Mahishi to present the Report and lay the record of evidence on the Table of the House on Friday, the 24th November, 1978.

6. The Committee also authorised Shri Maqsood Ali Khan and, in his absence, Shri Harekrushna Mallick to lay the Report and the record of evidence on the Table of Rajya Sabha on Friday, the 24th November, 1978.

7. The Committee placed on record their appreciation for the assistance rendered by the Minister of State in the Ministry of Health and Family Welfare (Shri Jagdambi Prasad Yadav) during the course of their deliberations.

The Committee also placed on record their appreciation for the assistance rendered by the then Minister of Health and Family Welfare (Shri Raj Narain) during the course of their deliberations.

8. The Committee also placed on record their appreciation for the co-operation and assistance rendered by the Legislative Counsels and the officers of the Ministry of Health and Family Welfare.

9. The Committee also placed on record their appreciation and thanks to the officers and staff of the Lok Sabha Secretariat for the diligent help and valuable assistance rendered by them to the Committee in all matters.

10. The Chairman, while associating herself in thanking the above-mentioned officers, also thanked the Members of the Committee for extending their full co-operation to her in conducting the proceedings of the Committee in most congenial atmosphere.

11. The Minister of State in the Ministry of Health and Family Welfare (Shri Jagdambi Prasad Yadav), while associating himself with the views expressed by the Chairman, also appreciated the work done by the Committee and the officers of the Lok Sabha Secretariat, Legislative Counsels and his Ministry.

12. The Members of the Committee also placed on record their high appreciation and thanks to the Chairman (Dr. Sushila Nayar) for very ably and impartially conducting the proceedings of the Committee and guiding their deliberations at various stages of the Bill.

13. The Committee then adjourned.

ANNEXURE

JOINT COMMITTEE ON THE MENTAL HEALTH BILL, 1978

MODIFICATIONS TO THE DRAFT REPORT AS ADOPTED BY THE COMMITTEE

(*Vide* para 3 of minutes)

(i) Page 5, para 17(i), lines 9—13,

omit "Till such time that the State Government specify the items to be included as such, the patient need not pay anything towards the cost of his maintenance and should be governed by other laws in force and be treated on par with other patients treated in general hospitals etc."

(ii) Page 5, para 17 (ii), line 4,

for "any other law"

substitute "any law"

(iii) Page 6, para 17(ii), line 9,

for "to act under this Bill."

substitute "to be treated as 'medical practitioner' for the purposes of the Bill."

(iv) Page 9, para 18, line 13,

for "Central and State"

substitute "Central and State Government"

(v) Page 10, para 19(i), lines 2-3,

for "are different in their physique and make-up and"

substitute "have different psychiatric problems from adults and the adult patients"

(vi) Page 11, para 22, last line,

after "if" *insert* "licences for"

(vii) Page 12, line 4,

for "patients in general"

substitute "inmates of the institutions"

(viii) Page 14, para 29, line 5,

for "the discretion and decision of the State Government"

substitute "be regulated according to orders of the institution concerned"

(ix) Page 16, para 32(ii), line 6,

after "practitioners"

insert "(one of whom shall be in Government service)"

(x) Page 17, para 34, line 11,

for "Part (a) of clause 23 has been amended accordingly."

substitute "Part (a) of clause 23 has been amended accordingly and part (c) has been omitted."

(xi) Page 20, para 43, lines 5-6,

for "more frequently and not once in"

substitute "once in three months rather than in"

(xii) Page 21, para 49, line 10,

after "reasons"

insert "to be recorded in writing"